Gun Week that in the first 11 months of 1966 there were 27 forcible rapes and six attempted rapes in the city. During the same period in 1967, there was one forcible rape and two attempted rapes.

Stacey credited much of the decrease to the publicity given the program and added that he knew of no accidents involving members of the "posse", as the classes were termed, or their families.

He said the program had been beneficial for "it taught 6,000 women safe handling of guns" and resulted in "over 400 defective guns being examined and turned down as unsafe to fire" and the safe firing during training of more than 300,000 rounds.

Many of the guns brought to the classes were "cheap, inferior, not practical for defense and some very dangerous," he said.

Stacey said a large number of the 1966 rapes were perpetrated by one man, who was apprehended shortly after the program began, which he felt was one factor in the reduction.

Charlie Wadsworth, of the newspapers' staff, said that "We felt when trouble comes, people are going to obtain guns—and the fact that members of the posse were taught to use the guns, and would-be wrongers in our town knew this, would have a positive effect.

Wadsworth pointed out that during the first nine months of 1967 the national crime rate increased 16 per cent while Orlando recorded a 2.9 decrease. It was one of the few cities in the nation to show such a decrease while the average increase of cities of its size was more than 19 per cent.

"I think this is due to the fact that people who commit these crimes were made fully aware that over 6,000 of our women knew how to handle a gun and to take care of themselves, and intended to do so if attacked," he added.

"When we closed the classes we were besieged with calls here at the office from people who had not enrolled and who wished to do so, and from people who didn't want the classes to stop. We still draw a query or two.

"As for my impression, and the effect of the program, I point to the reduction in crime percentage. That is about as effective as one program can get, I would think."

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MIAMI CRIME RATE DROPS WITH NEW TOUGH POLICY

The Miami, Fla., Police Department in late February released figures showing a 62 per cent drop in robberies in three of the city's Negro districts since Police Chief Walter Headley's "get tough" policy started in late December (Gun Week, Jan. 26).

The figures show 71 robberies during the month of January in the three districts as compared to 188 in December.

Police statistics for January, the first full month for the new policy, show robberies throughout the city declined by 45 per cent from 299 in December to 163 in January.

These same figures showed that while 62 per cent of these robberies took place in the Negro districts in December, the same districts accounted for only 43 per cent of the total in January.

Chief Headley said he had received no complaints about the tougher policy from "any law-abiding citizen" in Miami. He said of the approximately 8,000 letters and telegrams from people all over the country only 22 opposed his stand.

"The NAACP was going to come down here and fight the thing, but they never showed up. The Civil Liberties Union was going to get an injunction against me, but nothing happened," Headley said.

Negro spokesmen say older residents of the districts and small merchants who were repeated victims of muggings and robberies, strongly favor the new policy.

Miami's "war on crime" began Dec. 28, when Headley said he would send patrols reinforced with police dogs and shotguns into Negro districts with orders to crack down on young Negroes who were "taking advantage of civil rights."

Chief Headley said the program would continue as long as it showed results.

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# SENATE—*Friday, March 8, 1968*

The Senate met at 10 o'clock a.m., and was called to order by the Acting President pro tempore (Mr. METCALF).

Rev. Edward B. Lewis, D.D. pastor, Capitol Hill Methodist Church, Washington, D.C., offered the following prayer:

Dear Heavenly Father, we are grateful for the fact that Your spirit is within each of us, willing to work through sensitive men and women seeking Your will. We affirm in this moment of prayer that we are enriched and blessed through the spirit of God within.

It is Your business, dear Lord, to forgive, guide, strengthen, heal, and renew a sick and confused generation of the children of men. We pray for this kind of ministry from on high as we meet in this high place of government. May the reality of Thy holy spirit work in and through worthy national and international leaders. We are deeply concerned. Our hope in a day of disorder is to find divine order.

Give these men and women clear minds and romantic faith with a will not to be distressed or defeated by the tragic scene now being played on the world's stage. Help us to believe with unwavering faith that every condition can be healed, that with God nothing is impossible. Forgive us. Enlighten us. Lead us to truth and right. We pray in the Master's name. Amen.

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## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 7, 1968, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Jones, one of his secretaries.

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## INTERFERENCE WITH CIVIL RIGHTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The BILL CLERK. A bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The question is on the amendment of the Senator from North Carolina.

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## CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and it will be a live quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk called the roll, and the following Senators answered to their names:

[No. 39 Leg.]

| | | |
|---|---|---|
| Aiken | Hart | Pell |
| Bayh | Inouye | Sparkman |
| Byrd, W. Va. | Javits | Stennis |
| Ellender | Kennedy, N.Y. | Tydings |
| Ervin | Mansfield | Williams, Del. |
| Gore | Metcalf | |

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

I also announce that the Senator from Indiana [Mr. HARTKE], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Georgia [Mr. RUSSELL], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Illinois [Mr. PERCY], and the Senator from Kentucky [Mr. MORTON] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

The Senator from Nebraska [Mr. CURTIS] and the Senator from Vermont [Mr. PROUTY] are detained on official business.

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The ACTING PRESIDENT pro tem-

pore. The Sergeant at Arms will execute the order of the Senate.

After a little delay, the following Senators entered the Chamber and answered to their names:

| | | |
|---|---|---|
| Allott | Griffin | Miller |
| Anderson | Gruening | Mondale |
| Bartlett | Hansen | Monroney |
| Bennett | Hatfield | Montoya |
| Bible | Hayden | Morse |
| Boggs | Hickenlooper | Moss |
| Brewster | Hill | Mundt |
| Brooke | Holland | Murphy |
| Burdick | Hollings | Muskie |
| Byrd, Va. | Hruska | Nelson |
| Cannon | Jackson | Pearson |
| Carlson | Jordan, N.C. | Proxmire |
| Case | Jordan, Idaho | Randolph |
| Church | Kennedy, Mass. | Ribicoff |
| Clark | Kuchel | Scott |
| Cooper | Lausche | Smith |
| Cotton | Long, Mo. | Spong |
| Dodd | Long, La. | Symington |
| Dominick | Magnuson | Talmadge |
| Eastland | McCarthy | Thurmond |
| Fannin | McClellan | Tower |
| Fong | McGee | Williams, N.J. |
| Fulbright | McGovern | Young, N. Dak. |

The PRESIDING OFFICER (Mr. HOLLAND in the chair). A quorum is present.

## SECRETARY FREEMAN'S JUNKET TO THE FAR EAST

Mr. WILLIAMS of Delaware. Mr. President, in the February 22 issue of the Chicago Tribune there appeared an excellent editorial commenting upon Secretary Freeman's junket to the Far East. I ask unanimous consent that the editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

POLITICAL HAYRIDE

Sen. Williams of Delaware, the Senate's one-man investigator, is trying to stop what he describes as one of the biggest political junkets in history—a trip to the far east by Secretary of Agriculture Freeman and a Presidential jet planeload of guests. Ostensibly the 11-day trip is for agricultural trade promotion, including the opening of a United States food and agriculture exhibit in Tokyo in early April. What makes it suspect is that Freeman has invited a number of congressmen, governors, farm leaders, and their wives to accompany him.

As we pointed out on this page Jan. 28, the invitations went out barely two weeks after President Johnson urged citizens to refrain from traveling outside the western hemisphere to help reduce the serious balance of payments deficit. It is likely there are few, if any, genuine foreign trade experts among the politicians and farm leaders [not to mention their wives] who are on the guest list.

Only last month the department of agriculture dispatched a six-member soybean and feed grain mission on a two-weeks tour of Japan and Formosa and a seven-man wheat team on a three-weeks tour of the same countries, South Korea, and the Philippines. If there is any trade promoting left to be done in that area, it is unlikely Freeman's party would find much time for it in the one-day stops planned for Korea, Formosa, Hong Kong, and the Philippines, aside from the 24 hour "rest stop" in Honolulu.

"Such a grandiose junket, sponsored by a member of the President's cabinet in the face of his January [travel] plea to all Americans, merely shows the contempt this administration has for the American taxpayers," Williams said.

While he's about it, the senator might check into all the other trips abroad that are being planned by the department of agriculture. The Tokyo food exhibit is one of several the department has scheduled in 11 countries of western Europe and the far east this year. Legitimate trade promotion is one thing, but expense-free junketing for politicians and farm leaders the administration seeks to influence in an election year is quite another.

## CERTAIN GOVERNMENT OFFICIALS CONNECTED WITH LOANS FROM SMALL BUSINESS ADMINISTRATION AND FEDERAL HOUSING ADMINISTRATION

Mr. WILLIAMS of Delaware. Mr. President, several months ago I received a report that the Small Business Administration and the Federal Housing Administration were arranging loans on certain projects in Maine which in turn were sponsored or partly owned by individuals connected with the U.S. Government.

I submitted these allegations to the appropriate agencies, and in their replies they confirm that the transactions did take place, that certain Government officials were connected with the loan applicants, but that they apparently saw no conflict in such arrangements.

It is my understanding that the law precludes Government agencies from negotiating loans with any company controlled or partially owned by Government officials, and I most respectfully disagree with the explanations furnished in justification of their decisions.

I ask unanimous consent that the series of correspondence with these agencies be printed at this point in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

MARCH 22, 1967.

Mr. BERNARD L. BOUTIN,
*Administrator, Small Business Administration, Washington, D.C.*

DEAR MR. BOUTIN: I would appreciate a complete report as to any loans or financing arrangements between the Small Business Administration and the following projects:

1. Augusta Medical Development Corporation, Augusta, Maine
2. Memorial Manor, Inc., Augusta, Maine
3. Lovejoy Manor Nursing Home, Waterville, Maine

If the Small Business Administration has any loans in connection with any of the above, I would appreciate the following information:

1. The names and addresses of the sponsors
2. The officers, directors and stockholders of each of the corporations
3. The name and address of the construction firm and the actual construction cost
4. The amount, date and interest rates of the mortgage along with its present status.

Any additional information you feel would be pertinent to a better understanding of these three projects would be appreciated.

Yours sincerely,

JOHN J. WILLIAMS.

SMALL BUSINESS ADMINISTRATION,
*Washington, D.C., April 6, 1967.*

Hon. JOHN J. WILLIAMS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR WILLIAMS: This is in reply to your letter of March 22, 1967, regarding the Augusta Medical Development Corporation, Augusta, Maine and the Memorial Manor, Inc., a small business concern to be assisted in the financing of a nursing home.

A loan was approved by the Small Business Administration on October 24, 1966, in the amount of $395,000 in participation with the Depositors Trust Company, Augusta, Maine. Small Business Administration's share of the loan was $345,625 and the bank's share was $49,375. The interest rate on the SBA loan was at 5½% and on the bank's share 7%. Maturity of the mortgage on the land and building was for 25 years and on that part of the loan which was used for furnishings and equipment was for a period of 10 years.

The local community participated in this financing in the amount of $100,000. They raised these funds through the sale of stock in the local development company to 25 local citizens of August, Maine, and the balance through the general sale of debentures.

The officers and members of the Augusta Medical Development Corporation are as follows:

President: Ronald Doyon, State Furniture Company, Augusta, Maine.

Treasurer: Theodore N. Shiro, Proprietor, Dunkin Donuts, Augusta, Maine.

Secretary: Charles Chaplin, Sales Representative, Del Monte Foods, Augusta, Maine.

MEMBERS

Russell Brown, Owner, Brown Real Estate & Insurance Company, Bangor Street, Augusta, Maine.

Raymond Pepin, Assistant Vice-President, First National Bank, Augusta, Maine.

George Caron, Manager, Day's Jewelry Store, Water Street, Augusta, Maine.

Norman Bilodeau, Manager, John Hancock Insurance Company, Augusta, Maine.

Stephen Fields, Owner, Dairy Queen, State Street, Augusta, Maine.

Peter Williamson, Farrell's Clothing Store, Water Street, Augusta, Maine.

Charles Canning, Pine State Tobacco Company, Ellis Avenue, Augusta, Maine.

Leo Albert, Stone & Cooper Oil Company, Augusta, Maine.

Stanley Sproul, Stone Street, Augusta, Maine.

John Seymour, Department of Education, Civil Defense Division, Augusta, Maine.

Steve Crockett, Assistant Vice-President, First National Bank, Augusta, Maine.

Julian Botka, Vice-President, First National Bank, Augusta, Maine.

Paul McClay, General Manager, Station WFAU, Augusta, Maine.

G. Thomas Macomber, President, Macomber, Farr & Whitten Ins. Co., Augusta, Maine.

William Ready, Circulation Manager, Gannett Newspapers, Augusta, Maine.

Edward Cox, Executive Director, Maine Good Roads Association & Councilman Ward 7, City, Augusta, Maine.

Lou Reny, Contractor, Ganneston Park, Augusta, Maine.

Edward R. Yuneman, General Sales Manager, Coe Chevrolet, Inc., 340 State Street, Augusta, Maine.

Paul Simpson, Vice-President, Wyman & Young Construction Co., Augusta, Maine.

Thomas Brennan, District Manager, John Hancock Insurance Company, Augusta, Maine.

Alfred Krumen, Proprietor, Kruman Greenhouse, Augusta, Maine, and Lineman, New England Tel. & Tel.

Millard Simmons, Manager, LaVerdiere's Plaza Drug Store, Augusta, Maine.

The stockholders of Memorial Manor, Inc., the small business concern to be assisted, are as follows:

Paul J. Mitchell, Morrill Avenue, Waterville, Maine.

Eugene Pooler, 101 Ansonia Street, Hartfort, Connecticut.

The name of the construction company is Giguere and Hubert, Inc., Waterville, Maine.

A contract was entered into between this construction firm and the Augusta Medical

Development Corporation to furnish all materials and perform all work as shown in the drawings prepared by the Building Design and Engineering Corporation, Pawtucket, Rhode Island. This contract was signed on the first day of September, 1966, in the amount of $375,000.

A performance bond in the amount of $375,000 was issued to the contractor by the Maine Bonding Casualty Corporation in the amount of $375,000.

To date $100,000 of the loan funds have been cleared by the bank and SBA appraiser. Two disbursements have been made to the contractor, as follows:

| | |
|---|---|
| February 20, 1967 | $20,250.00 |
| SBA | 17,718.75 |
| Depositors Trust | 2,531.25 |
| March 20, 1967 | 15,788.00 |
| SBA | 13,804.50 |
| Depositors Trust | 1,983.50 |

The work on this project is proceeding satisfactorily and no payment is due on this account as yet.

Regarding your request for information concerning the Lovejoy Manor Nursing Home, Waterville, Maine, we have had no application for assistance to this firm and have never made any loans for their benefit.

If there is any further information that you may desire regarding this project, please advise us.

Sincerely yours,

BERNARD L. BOUTIN,
*Administrator.*

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MARCH 22, 1967.

Hon. PHILIP N. BROWNSTEIN,
*Commissioner, Federal Housing Administration, Department of Housing and Urban Development, Washington, D.C.*

DEAR MR. BROWNSTEIN: I would appreciate a complete report as to any loans or financing arrangements between the Federal Housing Administration and the following projects:

1. Augusta Medical Development Corporation, Augusta, Maine
2. Memorial Manor, Inc., Augusta, Maine
3. Lovejoy Manor Nursing Home, Waterville, Maine

If the Federal Housing Administration has any loans in connection with any of the above, I would appreciate having the following information:

1. The names and addresses of the sponsors
2. The officers, directors and stockholders of each of the corporations
3. The name and address of the construction firm and the actual construction cost
4. The amount, date and interest rates of the mortgage along with its present status.

Any additional information you feel would be pertinent to a better understanding of these three projects would be appreciated.

Yours sincerely,

JOHN J. WILLIAMS.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL HOUSING ADMINISTRATION,
*Washington, D.C., April 7, 1968.*

Hon. JOHN J. WILLIAMS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR WILLIAMS: I am replying further to your letter of March 22, 1967, concerning three projects situated in Augusta and Waterville, in the State of Maine.

Our Bangor insuring office advises that Augusta Medical Development Corporation and Memorial Manor, Inc., are not FHA projects. The information you requested relating to Lovejoy Manor Nursing Home of Waterville, Maine is attached.

Sincerely yours,

P. N. BROWNSTEIN,
*Assistant Secretary-Commissioner.*

LOVEJOY MANOR NURSING HOME, WATERVILLE, MAINE, PROJECT NO. 022-43001

1. Background of mortgage transaction:

(a) Date of first contact between sponsor and FHA—June 25, 1964.

(b) Date of application—February 26, 1965.

(c) Commitment: (1) Date—June 10, 1965, (2) Amount—$415,000.

(d) Initial endorsement for mortgage insurance—December 30, 1965.

(e) Final endorsement—This project is complete and occupied; final endorsement is expected when the mortgagor submits its certification of costs.

2. Mortgage:

(a) Date—December 30, 1965.

(b) Amount—$415,000.

(c) Interest 5¼%.

(d) Status—No notice of default in mortgage payments has been filed with FHA.

3. Names and addresses of the original officers, directors and stockholders of the sponsoring corporation, Medical Care Centers, Inc., are:

President—John P. Jabar of 90 Main Street, Waterville, Maine.

Treasurer—Paul J. Mitchell of Morrill Avenue, Waterville.

Clerk—Mrs. Judith E. Pettengill, 366 Commonwealth Avenue, Boston, Massachusetts.

The certificate of corporate organizations dated March 10, 1964, shows that the common stock of the corporation is held by John P. Jabar, Paul J. Mitchell and C. Thomas Zinni.

4. Construction:

The project was constructed by Giguera & Hubert, Inc., of 7 Roberts Street, Waterville, Maine. The project was certified for occupancy by FHA on August 4, 1966. FHA has not received a certification of total project cost. (See 1, (2) above).

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NOVEMBER 1, 1967.

MR. BERNARD L. BOUTIN,
*Administrator, Small Business Administration, Washington, D.C.*

DEAR MR. BOUTIN: Under date of April 6, 1967, you replied to my inquiry of March 22, furnishing certain information regarding Memorial Manor, Inc., Augusta, Maine.

In this report you listed the stockholders of Memorial Manor as being Mr. Paul J. Mitchell of Waterville, Maine, and Mr. Eugene Pooler of Hartford, Connecticut. A newspaper article of July 14, 1966, in commenting on this same project listed Mr. Paul J. Mitchell and Mr. John P. Jabar, both of Waterville, as being the operators or owners.

Will you please check your records and see whether or not this article is correct and, if so, the date and change of ownership and reasons therefor, along with a record of all salaries and other compensations that were paid to Mr. Jabar or other stockholders. From the earlier stages of development was Mr. Jabar a stockholder officer or sponsor of this project? If Mr. Jabar was separated was he paid a severance pay?

In the same letter you furnished the same information on the Augusta Medical Development Corporation, listing its officers, stock holders, etc.; however, in this list I do not see the name of Mr. Jerome H. Barnett nor the name of Mr. Daniel B. Hickey. Will you please advise whether or not Mr. Barnett and Mr. Hickey were connected with this project in any capacity at the time the application was filed or approved or if they were connected with the agency during the interval in which the loan was in effect.

Yours sincerely,

JOHN J. WILLIAMS.

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U.S. GOVERNMENT, SMALL BUSINESS ADMINISTRATION,
*Washington, D.C., November 20, 1967.*

Hon. JOHN J. WILLIAMS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR WILLIAMS: I am pleased to furnish the supplemental information requested in your letter of November 1, 1967, concerning certain officers and stockholders of Augusta Medical Development Corporation, Augusta, Maine.

This Agency approved a loan on October 24, 1966, to Augusta Medical Development Corporation, a nonprofit local development company, to assist in the financing of a 74-bed nursing home to be leased with a purchase option to Memorial Manor, Inc., an eligible small business.

This project is still under construction, and the target date for completion is on or about November 30, 1967.

The newspaper article dated July 14, 1966, referred to in your letter, was correct in listing Mr. Paul J. Mitchell and Mr. John P. Jabar, both of Waterville, Maine, as being the owners of Memorial Manor, Inc., as of that date. However, Mr. Jabar had disclosed in the application that, although he was a practicing attorney, he was also field representative at Waterville, Maine, for Senator Edmund S. Muskie. He had been advised from the outset by our Regional Office at Augusta, Maine, that in order to avoid any possible suggestion of a conflict of interest he would be required to obtain from Senator Muskie a written statement of no objection in connection with his ownership interest in the new small business to be assisted by the Small Business Administration loan.

As an alternative to the above, it was suggested that Mr. Jabar resign as president of Memorial Manor, Inc., and dispose of his stock holdings. On November 15, 1966, Mr. Jabar resigned as president of this company and sold all of his stock ownership therein. On the same date, at a special stockholders meeting of Memorial Manor, Inc., Mr. Eugene H. Pooler was elected president and Mr. Paul J. Mitchell was reelected as treasurer of the corporation. The ownership of the total capital stock issued and outstanding was listed as follows:

| Name and address: | *Shares* | *Type* |
|---|---|---|
| Paul J. Mitchell, Waterville, Maine | 200 | Common |
| Eugene H. Pooler, Hartford, Connecticut | 100 | Common |

We have been advised that Mr. Jabar sold his stock interest in Memorial Manor, Inc., at his cost. Our records show that this change of ownership occurred prior to any disbursement by this Agency on account of the loan. In accordance with normal procedure, our Regional Counsel investigated the matter and then prepared a written opinion concerning the change of ownership which confirmed the eligibility of this small business firm as beneficiary of the loan to Augusta Medical Development Corporation.

A review of our files indicates that, to date, no salaries have been paid to Mr. Jabar or other stockholders of Memorial Manor, Inc., nor was Mr. Jabar paid any severance pay. However, our files indicate that Mr. Jabar was paid legal fees in the amount of $1,500 for services rendered in the preparation and closing of this loan. Our records indicate that Mr. Jabar was an original incorporator of Memorial Manor, Inc., and that he was involved in the development and consummation of this project. Justification for this fee was submitted on SBA Form 159 dated January 26, 1967, and was approved by SBA.

Our files also indicate that Mr. Jerome H. Barnett and Mr. Daniel B. Hickey were charter members of Augusta Medical Development Corporation. In addition, Mr. Barnett is listed as president and director and Mr. Hickey as director on the original Certificate of Incorporation dated February 25, 1966. Both of these individuals resigned as officers, directors and members of this local development company after disclosure to them of SBA's eligibility requirements pertaining to Government employees. Neither of these individuals has ever been connected with this Agency or with Memorial Manor, Inc.

Your interest in this case is appreciated. If we can be of further service, please let us know.

Sincerely yours,

ROBERT C. MOOT,
*Administrator.*

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NOVEMBER 1, 1967.

Mr. PHILIP N. BROWNSTEIN,
*Assistant Secretary-Commissioner, Federal Housing Administration, Department of Housing and Urban Development, Washington, D.C.*

DEAR MR. BROWNSTEIN: Under date of April 7, 1967, you replied to my March 22 inquiry concerning three projects in Augusta and Waterville, Maine. In addition to the information furnished relating to Lovejoy Manor Nursing Home of Waterville, Maine, I would appreciate the following additional information:

Was a Mr. John P. Jabar of Waterville, Maine, in any manner connected with this project, and if so, in what capacity? An earlier news article had referred to Mr. Jabar as one of the stockholders of this concern which was under the control of Medical Care Centers, Inc.; however, it could be that he had resigned between the date of the article and your reply. Therefore, I would appreciate it if you would check your records since the date of the first application and if his name does appear I would appreciate having the date of his separation and the amount of payment thereon.

In listing the sponsors of Medical Care Centers, Inc., you list a Paul J. Mitchell of Waterville, Maine. Is this the same Mr. Mitchell who is or was at the time serving as the Urban Renewal Director for Waterville? If so, would this represent a conflict?

Yours sincerely,

JOHN J. WILLIAMS,

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL HOUSING ADMINISTRATION,
*Washington, D.C., November 22, 1967.*

Hon. JOHN J. WILLIAMS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR WILLIAMS: This is in further reply to your letter of November 1, 1967, concerning Lovejoy Manor Nursing Home in Waterville, Maine.

The owner and mortgagor of the nursing home is a corporation known as Medical Care Centers, Inc. According to the application for mortgage insurance, Mr. John P. Jabar was the attorney for the mortgagor corporation. The certificate of organization of Medical Care Centers, Inc. lists John P. Jabar as a stockholder and director of the corporation. The instruments in connection with the mortgage loan closing were executed by Mr. Jabar as president of the corporation.

A special stockholders' meeting of Medical Care Centers, Inc. was held on October 12, 1967. According to the minutes of that meeting, the previous officers of the corporation resigned and Thomas DiSilva was elected president of the corporation. The Bangor Insuring Office has been advised that Mr. DiSilva now owns all of the stock of the mortgagor corporation. We have no information as to the consideration which may have passed in connection with the stock transfer.

The insuring office advises that Paul J. Mitchell was serving as Executive Director of the Urban Renewal Authority for Waterville at the time the application for mortgage insurance for this project was filed and that he still holds that position. No informatioin has been brought to our attention which would indicate that Mr. Mitchell's ownership of stock in the privately-owned nursing home created any conflict of interest.

Sincerely yours,

P. N. BROWNSTEIN,
*Assistant Secretary-Commissioner.*

## PROPOSED CURTAILMENT OF MILITARY AID TO GREECE

Mr. PELL. Mr. President, our Government has announced that it has resumed regular diplomatic relations with the Government of Greece. From the viewpoint of our national interest and the peace of the world, I believe this is a correct step.

To my mind, not recognizing a nation or a government that is in being is a very shortsighted way of expressing disapproval.

I have always believed that we should follow the old international rule that when a government is in de facto control of a country, it is to our national interest to be in conversation and contact with that government.

On the other hand, we can indicate disapproval and apply pressure when it comes to extending any sort of aid or to maintaining normal consular relations, including the granting of consular invoices and issuance of visas to visiting businessmen.

So often in the past I have noticed that our various administrations have done just the opposite. Particularly in the instances of Spain and the Dominican Republic, we withdrew our Ambassadors and thus cut off our noses to spite our faces, since we lost our access to the highest levels of the receiving government. Meanwhile, we left our consulates open to carry on their normal activities; and, in the case of the Dominican Republic, we continued our aid mission. Actually, these activities are far more to the advantage of the receiving nation than to us.

We should have done exactly vice versa. That is, we should have kept our Ambassadors in active contact with the highest levels of the receiving government while cutting off our aid and assistance and those consular activities of benefit to the receiving government.

In the case of Greece, I would strongly urge our administration to firmly hold off any consideration of the granting of further military assistance until tangible, specific signs have been given that Greece is returning to some sort of constitutional government respecting human rights and the freedom to dissent. In fact, rather than consider the resumption of military assistance on the scale accorded to Greece prior to the junta's putsch, I believe we should attenuate it further. The replacement parts and ammunition supplies that are presently continuing to flow to Greece are being used for one purpose only—to enhance the strength of the junta. The threat of Bulgarian or Soviet invasion is remote. What is apparent is that military help from us is being used to bolster an unpopular government which, according to reliable reports in the press, gives its minions license to beat and torture its political opponents.

We as Americans used to have fairly stiff standards on this score. Now, unfortunately, when we hear of abuses of this sort we tend to shrug our shoulders and say it is not our responsibility. But, it most certainly is our responsibility when we help to support militarily the government responsible for this kind of primitive crude behavior. I notice, too, that the Greek Government has engaged a public relations firm at substantial expense to alter its present poor image.

So, I trust the present Government of Greece will not enjoy an automatic resumption of U.S. military assistance, but rather will be faced with the prospect of its eventual complete cancellation unless the Greek Government changes its ways. If their response is, "We will get military aid from elsewhere," I believe we should reply, "Fine," and not respond to this kind of blackmail, to which we have been so often subjected in recent years.

In addition, we should certainly do nothing to encourage U.S. travel to Greece under current circumstances, but rather bend our efforts to discourage such travel.

Finally, we should emphasize that these actions—the reduction of our present military assistance and the possible restrictions of American travel—should be understood to be temporary in nature. As soon as Greece shows by her Government's actions that she means to return to a reasonable constitutional government, then let us gladly eliminate the actions I have suggested. And then may the traditional friendship between Greece, the birthplace of democracy in the Old World, and our own United States, the oldest democracy in the New World, be once more resumed.

Greece, not just because of her history, but because of all the honest, fine hard-working people she has sent here, has given so much to our country.

Let us take these actions now to help her help herself.

## PRIVILEGE OF THE FLOOR

Mr. TYDINGS. Mr. President, on my own time, I ask unanimous consent that my legislative assistant, Robert Burt, may remain on the floor during the remainder of the consideration of the pending bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

## DESIGNATION OF THE SAN RAFAEL WILDERNESS, LOS PADRES NATIONAL FOREST IN THE STATE OF CALIFORNIA—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 889) to designate the San Rafael Wilderness, Los Padres National Forest, in the State of California. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see CONGRESSIONAL RECORD, vol. 113, pt. 26, p. 35842.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

The PRESIDING OFFICER. I ask the distinguished Senator from Washington whether he wishes the time for the consideration of the conference report charged against his allotment under the cloture, or otherwise.

Mr. JACKSON. Mr. President, I ask unanimous consent that this matter not be charged against my time.

Mr. HART. Mr. President, reserving the right to object, I wonder if we could avoid that confrontation.

Mr. JACKSON. All right; I have plenty of time.

The PRESIDING OFFICER. Does the Senator withdraw his request?

Mr. JACKSON. I withdraw my request.

The PRESIDING OFFICER. That being the situation, the time will be charged to the Senator from Washington.

Mr. JACKSON. Mr. President, on March 5 the other body approved this conference report which by its action sustains the position that the Senate had earlier taken. It is my considered judgment that this bill will someday be regarded as landmark conservation legislation. It is the first proposal to be enacted to add an additional wilderness area to the wilderness system adopted in 1964.

Conservationists, scientists, and the general public have shared in the decisions concerning this wilderness boundary. Following public hearings in Santa Barbara, the Forest Service enlarged its proposed boundaries by including approximately 33,000 acres which were not in their original wilderness area proposal. This brings the total area to about 143,000 acres.

The Forest Service made a very strong case for the need of additional firebreaks, which recent California fires just south of the area involved have underscored. Further, the Forest Service has pledged to continue closure of the road along the ridge, and protection of the pictographs and ecology of the vicinity.

Therefore, the Senate felt and the House has now agreed by the adoption of this conference report, that the plan of the Forest Service to manage this area will provide adequate protection for the San Rafael Wilderness.

Mr. KUCHEL. Mr. President, it was my privilege to be the author of this bill in the Senate. With our ever-growing population, Californians are especially sensitive to the need to preserve some of our remaining wild areas for generations yet to come. Thus, I think it is fitting that both the first and the second additions to the wilderness system under the 1964 act should be in our Nation's largest State.

The first bill, San Rafael, now goes to the White House. The second, S. 2531, my bill to establish the San Gabriel Wilderness was approved by the Senate earlier this week and was sent to the House of Representatives.

Mr. President, the able chairman of the Senate Interior Committee [Mr. JACKSON] and the chairman of the Public Lands Subcommittee [Mr. CHURCH] deserve the appreciation of all Americans who are concerned about the conservation of our natural resources for their action in speeding these bills on toward enactment.

Mr. President, I ask unanimous consent to have printed in the RECORD my remarks on the Senate floor when I introduced S. 889 on February 8, 1967; the conference report on S. 889, dated December 11, 1967; and a letter of February 19, 1968, to me from Thomas L. Kimball, executive director of the National Wildlife Federation.

There being no objection, the remarks, conference report, and letter were ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, Feb. 8, 1967]

*Senate*

SAN RAFAEL WILDERNESS AREA

Mr. KUCHEL. Mr. President, I introduce for appropriate reference a bill to establish the San Rafael Wilderness in the Los Padres National Forest in California.

In 1964 the Wilderness Act was signed into law. The present occupant of the chair, the Senator from Montana [Mr. METCALF], and I coauthored that legislation. This farsighted act provided that designated areas be incorporated into a great wilderness preservation system. This legislation preserved for all time more than 9 million acres of land in their original and unspoiled beauty. The legislation also called upon the President of the United States to recommend the inclusion of further wilderness areas after the investigation of their wilderness characteristics. If passed, the San Rafael Wilderness will be the first such area to be added to the wilderness system since the passage of the act in 1964.

The San Rafael Wilderness is an area of nearly 143,000 acres located between the cities of Santa Barbara and Santa Maria in southern California. The area is located within a 2-hour drive of 6 million people. With the ever-increasing population of southern California—in less than 25 years, 50 million people will be living in my State—it doubtless will be proximate to many million more in the future. The area is characterized by its rugged configuration and dense chaparral. More importantly, the area is free from the imprint of man. Indeed, when man comes, it is only as a visitor.

I, personally, have ventured into the area and have marvelled at the Indian pictographs inscribed on the rocks and in the caves in much of the locale. The colors in these graphics were derived from the natural barks and foliage by the indigenous Indians of the area. Rough trails invite the hardy to hike, ride, fish, and camp in this fine example of nature's works.

Because of its location in the San Rafael and Sierra Madre Mountain Ranges, its climatic conditions dictate its use during the winter and spring months when its high temperatures and dangerous fire hazard are absent. This is an important departure from most other wilderness areas which are snowbound in the winter and usable in the summer and fall months only.

I am happy to report that the San Rafael Wilderness proposal has met with enthusiastic support and recommendation from all concerned—the Secretary of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Defense, the State of California, the County of Santa Barbara, and the wildlife and natural resource agencies within them.

The preservation of significant areas of land in our country in their natural state is mandatory. These areas provide present and future generations examples of the workings of nature unimpeded by human invasion. The areas are just as they would be if man had never come upon the earth. As the availability of such areas is reduced by the advance of man, the value of retaining them is amplified.

This measure would be of enormous benefit to ourselves, our children and, indeed, all those who come after us.

Mr. President, I ask unanimous consent that the bill lie on the desk until next Wednesday for additional cosponsors.

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CONFERENCE REPORT (H. REPT. NO. 1029)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 889) entitled "An Act to designate the San Rafael Wilderness, Los Padres National Forest, in the State of California", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment.

WALTER S. BARING,
HAROLD T. JOHNSON,
MORRIS K. UDALL,
*Managers on the Part of the House.*

HENRY M. JACKSON,
CLINTON P. ANDERSON,
FRANK CHURCH,
THOMAS H. KUCHEL,
GORDON ALLOTT,
*Managers on the Part of the Senate.*

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STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses to the bill (S. 889) to designate the San Rafael Wilderness, Los Padres National Forest, in the State of California, submit this statement in explanation of the effect of the language agreed upon and recommended in the accompanying conference report.

Both the Senate and the House versions of S. 889 provide for the designation of a substantial area within the Los Padres National Forest as the San Rafael Wilderness. As passed by the Senate, S. 889 includes approximately 143,000 acres of rugged, relatively undisturbed wilderness land. As amended by the House the bill includes an additional 2,200 acres, consisting of three separate tracts of land, located along the northeast boundary of the proposed wilderness area. These three areas were added by the House primarily to provide for the inclusion of four sites displaying excellent examples of pictographs by the now extinct Chumash Indians, as well as to provide some additional protection along the route of a major flyway of the California condor and to include some additional natural grass openings, or potreros, within the exterior boundaries of the proposed wilderness area.

Since the adoption of the amendment by the House to include the additional 2,200 acres, information has been made available by the Forest Service emphasizing the extremely critical nature of wildfires and their control in this area and further emphasizing the vital importance of the additional area to existing and planned fire control programs. The subsequent information also points out that one of the most serious fire threats in brush areas, such as San Rafael, is from great sweeping conflagrations that move rapidly on a wide front. It has been well established that advance preparation of fuelbreaks will greatly enhance the chances of keeping a fire from sweeping over a ridge from one drainage to another. To aid in the control of such disastrous fires the Forest Service has, for several years, embarked on a program of establishing a system of fuelbreaks along the 10-mile stretch of the Sierra Madre Ridge southeast from Montgomery Potrero. This fire control system consists of areas wherein the brush has been removed and the area converted to grass. These converted grass areas are connecting links with the natural potreros and, with the potreros, make up a fire control line. About 900 acres of this work has been completed but another 600 acres remains to be converted. All of the remaining 600 acres of the strategic lands still to be treated lie within the 2,200-acre addition. It

has been further represented that there are no suitable substitute areas that could be readily selected by the local fire control experts outside the 2,200-acre addition.

The House members of the conference committee have very carefully weighed all information available on the problem of fire control as well as the possibility of selecting alternate sites for such control outside the 2,200-acre addition. Based upon the best information available from private, State, and Federal fire control organizations, each familiar with the area and each a recognized authority on wildfires of the type common to this vicinity, the members concluded that alternate sites for fire control are not readily available outside the 2,200-acre addition.

As the prevention of disastrous wildfires is of major concern in this area and as the responsibility for the control and prevention of such fires rests with the Forest Service, the statements and recommendations of that agency weighed heavily with the conferees. As late as 1966 fires have occurred in this area and in the great Wellman fire of that year 70,000 acres were burned within the proposed wilderness area. Any course of action which would seriously inhibit fire control measures must, in the opinion of the conferees, be avoided. For this reason, and then only after strong representations by the Forest Service, the recognized experts in forest fire prevention as well as the agency that must take action to fight and control these fires, did the conferees agree upon the deletion of the additional 2,200 acres.

With respect to the Chumash Indian pictographs, it should be pointed out that examples of this culture are not confined to the additional 2,200 acres but some of the best preserved pictographs are located well within the wilderness area. Also, while the House amendment added some potreros to the wilderness, there are a number remaining within the proposal, including approximately 400 acres of the Montgomery Potrero.

Your conferees were not unmindful of the necessity to protect the Chumash Indian pictographs and the rare California condor, or of the advantages of preserving the beauty of the potreros in their natural state for the enjoyment of future generations. To a very large extent these values can be preserved by limiting public use to and on roads in this area and by maintaining the wilderness characteristics of the area without actual inclusion within a designated wilderness. Accordingly, the conferees find that the Sierra Madre Ridge road should remain closed to all but administrative traffic from McPherson Peak Lookout easterly to a point one mile from Santa Barbara Canyon, and that public travel should also be restricted on the Buckhorn and Cachuma Saddle-McKinley Peak road to the extent deemed advisable by the Forest Service. The conferees further stress that protection of the Chumash Indian pictographs in the area, as well as the protection of the endangered California condor, is essential. It is also desired that the potrero land adjacent to the wilderness areas be preserved as nearly as possible in its natural state, consistent with fire control needs.

Should the exclusion of the area contemplated by the House amendment impede the protection afforded these values, the Congress should review the entire proposal with a view to amending the wilderness boundaries.

WALTER S. BARING,
HAROLD T. JOHNSON,
MORRIS K. UDALL,
*Managers on the Part of the House.*

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NATIONAL WILDLIFE FEDERATION,
*Washington, D.C., February 19, 1968.*

Hon. THOMAS H. KUCHEL,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR KUCHEL: This is in response to your invitation that the National Wildlife Federation comment about the current controversy which has arisen over the San Rafael Wilderness Area conference report. In recent weeks, considerable confusion has existed over the position of citizen conservation groups on this issue and we welcome this added opportunity to explain our views.

At the beginning, and probably most importantly, I should explain what we think this issue is not—and must not—be. Statements have been made that the San Rafael proposal, first under provisions of the 1964 Act to advance through both bodies, will constitute a history making precedent. One hears that the Forest Service must have its recommendations adopted in their entirety in order to preempt any future challenges to its recommendations made to Congress. In a similar vein one is told that some conservation groups must establish a precedent that changes can be made to recommendations made to the Congress by the Forest Service.

If this be true, the present controversy over the size of San Rafael Wilderness is an exercise in futility for 32,000 acres has already been added to the original proposal after field hearings. Thus, the Service already has given consideration to the views of public citizen groups.

In our opinion, if this lengthy delay over 2200 acres has done nothing else, it has proven that neither of the contesting principals can claim a precedent setting victory. It should serve as a useful example, however, to support the contention of the National Wildlife Federation that each wilderness area proposal must stand or fall on its own merit. We shall not consider the San Rafael, or any other wilderness area proposal, as a precedent. We shall support the Forest Service (or Park Service or Bureau of Sport Fisheries and Wildlife) recommendations when we think they are sound, but we also shall suggest alterations, additions and deletions to proposed wilderness areas as they appear desirable or necessary. And, we believe the Congress should take the same viewpoint. Perhaps if the conferees could adopt a "no-precedent" declaration of policy, it would clear the air for more thoughtful consideration of the true points in contention.

Now to make a few observations about specific provisions in the differing San Rafael bills:

1. It is said that the 2200 acres in controversy are needed in wilderness status to protect the endangered California condor. Of course, we are vitally concerned about the welfare of this rare bird. But, as we see it, the key to maintaining favorable condor habitat is limiting human activity and the Forest Service has agreed to do this through closure of the critical portion of Sierra Madre Ridge Road to public use. The road lies outside the recommended 2,200-acre addition to the proposed wilderness. This would appear to be enough. An imaginary wilderness boundary line on the ground would not assist in habitat maintenance to any marked degree.

2. The same reasoning applies to contention that the 2200-acre addition is needed to protect Indian pictographs within it. Protection for these pictographs can be provided under some other classification. Designation as a wilderness area would give the Secretary of Agriculture no new tools to protect the artifacts. He already has adequate authority to protect them in connection with National Forest administration.

3. In view of the foregoing, the major point at issue boils down to the relationship of the 2200-acre area to planned and partially completed fire presuppression work on the Sierra Madre Ridge. The Forest Service contends that its plans for completion of type-conversion work on the Sierra Madre Ridge do not depend upon once-planned use or development, as has been suggested. The Service says this work is a preventive measure, a necessary precaution to give firefighters the prepared fuelbreak they would need if wildfire breaks out from any cause and cites the recent 90,000-acre Wellman Fire nearby as an example of proven need. Conservation advocates of the 2200-acre addition contend that the area does not need to be subjected to bulldozing and vegetative-type conversion for fire control purposes.

In view of the foregoing, one essential question must be answered: does the Forest Service have the best knowledge and ability to handle fire control on the area; and/or are responsible officials of the Forest Service acting with integrity when they say these acres should not be placed in wilderness status because of the fire situation? To say the Forest Service cannot best cope with the fire control situation is to question the agency's ability to handle fire suppression for millions of other acres under its jurisdiction, or to challenge the integrity of Forest Service officials, which we do not. When faced with the judgment the National Wildlife Federation concluded the Forest Service has the best competency to judge fire suppression needs; therefore, we hope the Senate position in this controversy is upheld.

Sincerely,

THOMAS L. KIMBALL,
*Executive Director.*

Mr. JACKSON. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

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## INTERFERENCE WITH CIVIL RIGHTS

The Senate resumed the consideration of the bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 565

Mr. ERVIN. Mr. President, I believe in laws applying in like manner to all men in like circumstances, a principle which the Dirksen substitute offends in about every way possible.

Section 101(b)(1)(C) makes it a crime for any person to use violence or a threat of violence against another because he is enjoying his employment by an agency of the United States. Subsection (b)(2)(C) of the same section makes it a crime to use violence or a threat of violence against any man because he is seeking to enjoy his employment by a private employer or an agency of a State or a subdivision of a State, because he is so doing and also because of his color, race, religion, or national origin.

Ever since Adam's curse was pronounced—which, instead of being a curse, was actually a blessing—it has been decreed by the Almighty God that most men must eat their bread in the sweat of their faces; and I say that if it is wrong to interfere by force with a man's right to enjoy his employment by the Federal Government, and if it is wrong to interfere with a man's right of employment by a private employer or by a State or subdivision of the State because of a man's color, it is wrong to interfere by force or threat of force with any man's employment when he is seeking to follow his employment and support his family.

The amendment I propose would feed everybody out of the same spoon who uses violence to keep a man from working, and give every man the right to pursue his employment without being subjected to force or threat of force, if he is engaged in any private employment which is related to interstate commerce, or is employed by a State or subdivision thereof. I believe every Senator who believes that a man's right to employment is sacred and ought not to be interfered with by force and who believes that all laws should be applied to all men in like manner, should vote for my amendment.

The PRESIDING OFFICER. Who yields time, and to whom?

Mr. TYDINGS. Mr. President, I call for a vote on the amendment.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TYDINGS. I yield myself 3 minutes.

Mr. President, the amendment offered by the distinguished Senator from North Carolina would extend the police power of the Federal Government to any physical altercation of any type involving any person who travels to or from his place of employment, between the time he left home in the morning and the time he arrived home at night.

Let me read specifically what the amendment proposes. If Senators will turn to page 2, line 16 of the Dirksen substitute, they will see the following language:

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

Continuing with line 20, subsection (1):

any person because he is or has been, or in order to discourage such person or any other person or any class of persons from—

Then, turning to amendment No. 565, we read:

pursuing his employment by any department or agency of the United States or by any private employer engaged in interstate commerce or any activity affecting interstate commerce, or traveling to or from the place of his employment or any other place for such purpose;

Any such person thus comes within the reach of the police power of the Federal Government.

Mr. President, let me illustrate what adoption of this amendment would mean. A person is driving home and stops his car at a traffic light, the car behind him starts banging on the horn, and the two get out and get in a fistfight. Under this amendment, Uncle Sam will get involved in that local police affair. If a worker on his way home stops at the local tavern to have a beer, gets involved in some type of argument, and a scuffle ensues, the police power of the United States would be involved.

Mr. President, in my judgment, adoption of this amendment would bring us a long, long way toward establishment of a national police force, and would undermine the principle that primary law enforcement responsibility should remain with local government.

For those reasons, Mr. President, I oppose the amendment, and urge that it be rejected.

Mr. ERVIN. Mr. President, I regret to say that the Senator from Maryland has totally misconstrued the effect of the amendment.

It applies only to the exercise of force or threat of force because a man is going to his employment or pursuing his employment, or seeking to pursue his employment, or is returning home after pursuing his employment. It is substantially the same provision contained in section 101, subsection (2)(C), except that in that provision force or threat of force is used on account of race. In other words, the original bill is designed to protect one on account of his race, and my amendment is designed to protect men of all races against force or threat of force exerted against them because they are trying to pursue their employment. Surely a man's right to protection against violent efforts to deny him his employment ought not to hinge on racial motivation of those using the violence.

Mr. KENNEDY of Massachusetts. Mr. President, we considered this amendment in the Committee on the Judiciary. We had a chance to examine it in some detail, and it was rejected by the full membership of the committee after a good deal of consideration. It was debated and considered, and received at that time sufficient thought and examination, I believe. So Senators have, in this case, not only the comments on the merits made now by the Senator from Maryland [Mr. TYDINGS], with which I would certainly agree as far as his interpretation of the effect of the amendment is concerned, but we also have the knowledge that the members of the Committee on the Judiciary, after examination, rejected it as well, for those very reasons.

Therefore, I urge that the amendment be rejected.

Mr. ERVIN. Mr. President, my amendment was rejected by one vote, after the administration had the Senator from Pennsylvania [Mr. SCOTT] flown all the way back from Oxford University to vote against it. It was voted down by a vote of 8 to 7 only.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 40 Leg.]

| | | |
|---|---|---|
| Aiken | Dominick | Javits |
| Allott | Eastland | Jordan, N.C. |
| Anderson | Ellender | Jordan, Idaho |
| Bartlett | Ervin | Kennedy, Mass. |
| Bayh | Fannin | Kennedy, N.Y. |
| Bennett | Fong | Kuchel |
| Bible | Fulbright | Lausche |
| Boggs | Gore | Long, Mo. |
| Brewster | Griffin | Long, La. |
| Brooke | Gruening | Magnuson |
| Burdick | Hansen | Mansfield |
| Byrd, Va. | Hart | McCarthy |
| Byrd, W. Va. | Hatfield | McClellan |
| Cannon | Hayden | McGee |
| Carlson | Hickenlooper | McGovern |
| Case | Hill | Metcalf |
| Church | Holland | Miller |
| Clark | Hollings | Mondale |
| Cooper | Hruska | Monroney |
| Cotton | Inouye | Montoya |
| Dodd | Jackson | Morse |
| Moss | Randolph | Thurmond |
| Mundt | Ribicoff | Tower |
| Murphy | Scott | Tydings |
| Muskie | Smith | Williams, N.J. |
| Nelson | Sparkman | Williams, Del. |
| Pearson | Spong | Young, N. Dak. |
| Pell | Stennis | |
| Proxmire | Symington | |

The PRESIDING OFFICER (Mr. DODD in the chair). A quorum is present.

The question is on agreeing to the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana [Mr. HARTKE], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Georgia [Mr. RUSSELL], the Senator from Florida [Mr. SMATHERS], the Senator from Georgia [Mr. TALMADGE], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from Rhode Island [Mr. PASTORE]. If present and voting, the Senator from Florida would vote "yea," and the Senator from Rhode Island would vote "nay."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Illinois [Mr. PERCY], and the Senator from Kentucky [Mr. MORTON] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

The Senator from Vermont [Mr. PROUTY] and the Senator from Nebraska [Mr. CURTIS] are detained on official business.

If present and voting, the Senator from Illinois [Mr. PERCY] would vote "nay."

On this vote, the Senator from Tennessee [Mr. BAKER] is paired with the Senator from Nebraska [Mr. CURTIS]. If present and voting, the Senator from Tennessee would vote "nay" and the Senator from Nebraska would vote "yea."

The result was announced—yeas 18, nays 67, as follows:

[No. 41 Leg.]

YEAS—18

| | | |
|---|---|---|
| Byrd, Va. | Hickenlooper | McClellan |
| Eastland | Hill | Sparkman |
| Ellender | Holland | Spong |
| Ervin | Hollings | Stennis |
| Fulbright | Hruska | Tower |
| Hayden | Jordan, N.C. | Young, N. Dak. |

NAYS—67

| | | |
|---|---|---|
| Aiken | Carlson | Hansen |
| Allott | Case | Hart |
| Anderson | Church | Hatfield |
| Bartlett | Clark | Inouye |
| Bayh | Cooper | Jackson |
| Bennett | Cotton | Javits |
| Bible | Dodd | Jordan, Idaho |
| Boggs | Dominick | Kennedy, Mass. |
| Brewster | Fannin | Kennedy, N.Y. |
| Brooke | Fong | Kuchel |
| Burdick | Gore | Lausche |
| Byrd, W. Va. | Griffin | Long, Mo. |
| Cannon | Gruening | Long, La. |

| | | |
|---|---|---|
| Magnuson | Morse | Ribicoff |
| Mansfield | Moss | Scott |
| McCarthy | Mundt | Smith |
| McGee | Murphy | Symington |
| McGovern | Muskie | Thurmond |
| Metcalf | Nelson | Tydings |
| Miller | Pearson | Williams, N.J. |
| Mondale | Pell | Williams, Del. |
| Monroney | Proxmire | |
| Montoya | Randolph | |

NOT VOTING—15

| | | |
|---|---|---|
| Baker | McIntyre | Russell |
| Curtis | Morton | Smathers |
| Dirksen | Pastore | Talmadge |
| Harris | Percy | Yarborough |
| Hartke | Prouty | Young, Ohio |

So Mr. ERVIN's amendment (No. 565) was rejected.

Mr. HART. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. JAVITS. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

## CONSERVATION—MESSAGE FROM THE PRESIDENT

Mr. MANSFIELD. Mr. President, there is a message at the desk from the President of the United States on conservation, and I ask that it be printed in the RECORD without being read, and referred jointly to the Committees on Public Works, Interior and Insular Affairs, and Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

*To the Congress of the United States:*

Theodore Roosevelt made conservation more than a political issue in America. He made it a moral imperative.

More than half a century ago, he sounded this warning:

> To skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed.

The conservation work that Roosevelt began was protection of our natural heritage for the enjoyment and enrichment of all the families of the land. That is work which never ends. It must be taken up anew by each succeeding generation, acting as trustees for the next.

But the conservation problems Theodore Roosevelt saw are dwarfed by the new ones of our own day.

An unfolding technology has increased our economic strength and added to the convenience of our lives.

But that same technology—we know now—carries danger with it.

From the great smoke stacks of industry and from the exhausts of motors and machines, 130 million tons of soot, carbon, and grime settle over the people and shroud the Nation's cities each year.

From towns, factories, and stockyards, wastes pollute our rivers and streams, endangering the waters we drink and use.

The debris of civilization litters the landscape and spoils the beaches.

Conservation's concern now is not only for man's enjoyment—but for man's survival.

Fortunately, we have recognized the threat in time, and we have begun to meet it.

Through the landmark legislation of the past few years we are moving to bring a safe environment—both to this generation, and to the America still unborn.

—The Water Quality Act of 1965 and the Clean Water Restoration Act of 1966 provide the foundation of our first major efforts to curb the pollution blighting America's waters.

—The Clean Air Act of 1965 and the Air Quality Act of 1967 build a strong base from which we can begin to clean the air.

—The Solid Waste Disposal Act of 1965 launched a new program to find the most efficient ways of disposing of millions of tons of solid wastes that clog the city and the countryside.

—The Highway Beautification Act of 1965 laid the groundwork for scenic roads and enjoyable travels.

—Over 2.2 million acres have been authorized for addition to the Nation's Park System—and for the first time in generations more land is being preserved for the people than is being developed for industrial or urban purposes.

But the work of the new conservation, too—like the task we inherited from an earlier day—is unending. Technology is not something which happens once and then stands still. It grows and develops at an electric pace. And our efforts to keep it in harmony with human values must be intensified and accelerated. Indeed, technology itself is the tool with which these new environmental problems can be conquered.

In this Message I shall outline the steps which I believe America must take this year to preserve the natural heritage of its people—a broad heritage that must include not only the wilderness of the unbroken forest, but a safe environment for the crowded city.

### A PRIORITY CONSERVATION AGENDA

The dangers that threaten our environment are varied. To succeed in meeting their challenge requires a wide-ranging response, with special emphasis on the items of highest priority.

For Fiscal 1969, I propose a program to complete this vital agenda for action.

*First, I recommend that we assure the people that their water supplies will be pure and plentiful now and in the years ahead by:*

—Prosecuting the war on water pollution with conviction, combining Federal, State and local efforts to finance the construction this year of $1.5 to $2 billion in community waste treatment plants.

—Creating a National Water Commission to plot the course of water resource management for the next century.

—Helping to assure the quality of community water supplies through the Safe Drinking Water Act of 1968.

—Meeting the water needs of one of America's fastest growing regions by authorizing the Central Arizona Project.

*Second, I recommend that we guard the landscape against the waste products of modern life by:*

—Protecting rivers, beaches and coastal areas against the devastation of oil spillage and other hazardous substances through strong legislation to control them.

—Preventing the future despoilment of thousands of acres of mining land through the Surface Mining Reclamation Act of 1968.

—Discovering efficient methods to dispose of the millions of tons of refuse and trash that threaten to engulf city and countryside, through an extension of the Solid Waste Disposal Act, and to accelerate the development of economical systems which will convert waste into useful by-products.

—Transforming our highways into corridors of beauty through prompt action to continue the Highway Beautification Program, and building new roadside parks for the traveling family.

*Third, I recommend that we advance in the battle for clean air over America's cities by:*

—Fully exploiting our vast technology to find new and effective pollution abatement methods.

—Investing $128 million as the Federal share in pollution control and research, more than has ever been committed in a single year before.

—Organizing for action, through the designation of Air Quality Control Regions under the landmark Air Quality Act of 1967.

*Fourth, I recommend that we bring a sense of fulfillment, outdoor recreation and serenity to all Americans by:*

—Bringing new national parks closer to the people who live crowded city lives by development of the redwood groves of California, the Northern Cascades of Washington and the historic Potomac River.

—Adding thousands of new acres of unspoiled and primitive lands to the wilderness system.

—Completing action on the nationwide networks of scenic rivers and trails.

—Focusing now on the problem of noise and its impact on our daily lives.

*Fifth, I recommend that we explore the peaceful promise of the ocean's depths by:*

—Beginning to plan now with other nations to launch an International Decade of Ocean Exploration.

—Putting our most advanced marine technology to work in the development of improved buoys for better prediction of weather and ocean conditions.

### WATER POLLUTION CONTROL

America's rivers, lakes and coastal waters have nourished her growth: irrigated the farms, powered the dynamos, and provided transport for commerce.

But we have not used our waters well.

Our major rivers are defiled by noxious debris. Pollutants from cities and industries kill the fish in our streams. Many waterways are covered with oil

slicks and contain growths of algae that destroy productive life and make the water unfit for recreation. "Polluted Water—No Swimming" has become a familiar sign on too many beaches and rivers. A lake that has served many generations of men now can be destroyed by man in less than one generation.

Only recently have we begun to reverse this trend—to undertake a program to preserve waters that are still clean, and purify those that have become infested with pollution.

The conditions have worsened through decades of neglect and indifference. They affect entire industries. They involve thousands of miles of waterways and thousands of communities that border them.

We have discovered not only that the problems of pollution are formidable, but that their solutions must be interlocking.

—Water quality standards must be set for entire bodies of water, varying from place to place depending on the water's use.

—Standards must be enforceable and they must apply to both municipalities and industries.

—Waste treatment plants must be constructed and other methods developed to prevent pollutants from reaching the water.

—New methods of cooperation and enforcement must be established at all levels, for waters bearing poisons do not stop at city, county or State boundaries. Clearing one part of a stream is no answer. Water bodies must be cleaned in their entirety.

America took strong action to combat the problem in 1965 with the Water Quality Act, and took another major step a year later with the Clean Water Restoration Act. Under those measures, the long and difficult task of cleaning the waters of our land has begun.

WATER QUALITY STANDARDS

Now, for the first time in our history, all the States have taken inventory of their water resources, considered their future needs, and developed quality standards.

As the law requires, these standards, and the plans to carry them out, have been submitted to the Secretary of the Interior for approval.

Many of the plans have already been approved. This is welcome news for communities and businessmen alike. Now they can take action because they know the standards they must all meet.

*I have asked the Secretary of the Interior to speed the review of the remaining standards and plans so the Federal Government can more effectively help the States and communities turn their blueprints into action.*

THE CONSTRUCTION OF TREATMENT PLANTS

The heart of a water pollution control program is the community waste treatment plant which prevents refuse, debris, and filth from reaching the waters. To meet the Nation's critical needs calls for both the construction of new plants and the improvement of existing facilities.

Through the Clean Water Restoration Act, the Federal Government can provide financial help—from 30 to 55 percent of the cost—for the construction of municipal waste treatment works. Already, under that Act and earlier authority, 8,000 grants, totalling more than $1 billion, have been made. They have helped local communities build more than $4.5 billion worth of plants, to control the pollution in 67,000 miles of water on which almost 66 million Americans depend.

More is required, however. The problem is pressing and the backlog of needed plants is great.

With accelerated Federal help, we can stimulate the construction of $1.5 billion to $2 billion in waste treatment plants under the $700 million authorization approved by the Congress for Fiscal 1969.

This will be done in two ways.

*First, I recommend an appropriation of $225 million for grants under the Clean Water Restoration Act.* This should generate about $500 to $600 million of plant construction.

*Second, I recommend legislation to allow the Secretary of the Interior to make annual installment payments in addition to the lump sum grants as is presently the practice.* This would permit the Federal Government to make construction commitments up to a total of $475 million in Fiscal 1969.

Under this new financing method, the $475 million would generate a total of about $1 to $1.4 billion of construction. Communities would be able to build many of their urgently-needed plants without delay and get them into the fight against pollution now.

USER CHARGES

Capital and operating costs of treatment plants are expensive, and it is right that those costs be borne by those who receive the plant's benefits. Accordingly, the new financing program will require, as one criterion for assistance, that municipalities impose a system of user charges on those who use the plants.

A system of user charges would not only provide an equitable way of sharing costs, but would accomplish other desirable purposes, as well. Such charges would:

—Provide an incentive for industries to curb pollution through improved manufacturing techniques.

—Relieve the pressure on the overloaded tax bases of local governments.

SAFE COMMUNITY WATER SUPPLIES

As America's cities grew and developed their own water supply systems, cholera and typhoid posed a grim threat to health and safety.

That threat was countered long ago.

Now, we in America drink tap water without a thought as to its safety. And yet—that water is not always as safe as it should be.

We do not have enough information on the long-term health effects of substances in drinking water.

New hazards—chemical and industrial wastes, and other materials—are creating new problems.

The Nation's Public Health Service cannot respond fully to this danger. Its authority is limited by a law passed almost half a century ago.

A recent study has indicated that about 30 percent of the Nation's public drinking water systems may fall below Federal standards.

*To help the cities and communities of America assure citizens that the water they drink is safe, I propose the Safe Drinking Water Act of 1968.*

This measure will strengthen the authority of the Secretary of Health, Education, and Welfare to:

—Develop, adopt and enforce improved standards relating to chemical contaminants in drinking water.

—Conduct a comprehensive study of the safety of public drinking water supplies in the United States.

—Determine whether any additional steps are necessary in this area.

The new law will help move us toward this goal: That every glass of drinking water drawn from America's public water supply systems will meet proper health standards.

WATER MANAGEMENT AND PLANNING
NATIONAL WATER COMMISSION

We will not have served the water needs of Americans if we meet only the requirements of today's population. A prudent nation must look ahead and plan for tomorrow.

First, we must continue our sound programs of water management, research, and advance planning to solve supply problems and to prepare for the future needs of farms and factories, and growing city populations.

Second, we must establish a board to develop long-range policy for water resources.

Last year I asked the Congress to establish a National Water Commission to:

—Work with Federal, State and private agencies in a survey of our long-term water needs.

—Explore the effect of water development projects on regional growth.

—Identify alternative policies and programs to meet national and regional water resource objectives.

Both the Senate and the House of Representatives have passed legislation to establish this Commission. The measure is now in conference.

*I urge the Congress to complete its action and authorize this much-needed Commission.*

CENTRAL ARIZONA PROJECT

A vast area of the Western United States is arid. Thousands of acres are in danger of becoming a barren wasteland as underground sources of water are used up or depleted.

We have the techniques and know-how to overcome this problem.

Now legislation is required to authorize a program to bring water from the Colorado River to meet the urgent needs of the people of Arizona.

Proposals affecting the canyons and the gorges of this mighty and historic river have been the subject of searching national debate. Out of this discussion, a plan has evolved that will require no dams on the Colorado River, preserve its scenic values, and at the same time permit the immediate construction of essential water supply facilities.

*I ask the Congress to authorize the Central Arizona Project this year.*

OIL POLLUTION ABATEMENT

Last year, when the *Torrey Canyon* sank off the coast of Cornwall, the 30 million gallons of oil it was carrying spread destruction throughout the coastal waters, killing fish and birds, and then the refuse of this devastation swept onto the beaches.

Only this week, at home, tragedy struck again. The tanker *Ocean Eagle* broke in half at the mouth of San Juan Bay, spewing some 1½ million gallons of oil over some of the finest beaches in the Western Hemisphere.

Major disasters rarely occur. But minor oil spills are frequent—and their combined effect, although less dramatic, can also be harmful.

Last year, I asked the Secretary of the Interior and the Secretary of Transportation to study the problem of oil pollution in American waters. Their report warns us that we must protect the beaches, places of recreation, coastal and inland waters, and our fisheries from spillage not only of oil, but of other hazardous substances as well.

We need a comprehensive system to control oil pollution and to provide for prompt cleanup.

We also must be able to cope with the spillage of large quantities of such substances as chlorine.

Last year the Senate passed S. 2760 to deal with the problem of oil pollution.

*I propose we build upon and strengthen that bill through the Oil Pollution and Hazardous Substances Control Act of 1968.*

This Act, together with the earlier Senate legislation, would:

—As a general rule, make the discharge of oil unlawful if it occurs from a shore facility or a ship operating within 12 miles from shore. The 3-mile territorial and 9-mile contiguous zones are thus both covered. This greatly expands the previous standard of liability, which was limited to "gross or willful negligence" and to the 3-mile limit.

—Impose upon the oil pollutor responsibility for cleaning the beaches and waters.

—Empower the Federal Government to clean up oil spills whenever the owner or operator fails to act, but require the pollutor to reimburse the Government for the clean-up costs. Prior law limited the owner's liability to the salvage value of the ship. The proposal will make them liable for the full costs of clean-up.

—Authorize the Government to establish regulations for shipboard and related marine operations to reduce the possibility of oil leakage at the source.

—Provide protection against large and dangerous discharges of pollutants other than oil by requiring those responsible to take whatever clean-up or other action the Government considers necessary. If the pollutor fails to act, the Government will take the necessary steps, and hold the pollutor liable for the costs.

AIR POLLUTION

Metals corrode, fabrics weaken and fade, leather weakens and becomes brittle, rubber cracks and loses its elasticity, paint discolors, concrete and building stone discolor and erode, glass is etched and paper becomes brittle.

This is not a description of the effects of a new weapon.

It is a sobering report on the results of pollution in the air we breathe.

And that air is not divisible into convenient shares. Polluted air affects the lungs of all—rich and poor, manager and worker, farmer and urban dweller.

Of all the problems of conservation, none is more urgent than the polluted air which endangers the American people. We have been fortunate so far. But we have seen that when winds fail to blow, the concentrations of poisonous clouds over our cities can become perilous.

Air pollution is a threat to health, especially of older persons. It contributes significantly to the rising rates of chronic respiratory ailments.

It stains our cities and towns with ugliness, soiling and corroding whatever it touches. Its damage extends to our forests and farmlands as well.

The economic toll for our neglect amounts to billions of dollars each year.

The Clean Air Act of 1963 gave the Federal Government authority to help States and local communities plan effective programs to combat pollution.

In 1965, at my request, the Congress strengthened that Act by empowering the Secretary of Health, Education, and Welfare to set standards controlling automobile exhaust pollution—a major and mobile source of air contaminants.

Last year we took a giant step with the Air Quality Act of 1967. That Act:

—Will help our States abate pollution in the only practical way—on a regional basis. For air knows no man-made boundary.

—Gives the Government standby power to impose Federal standards or enforce State standards, if the States do not act.

—Gives the Secretary of Health, Education, and Welfare new power to stop serious cases of pollution that present a clear hazard to the public's health.

—Through accelerated research and testing, will help provide the technological answers to this baffling problem: How can we most economically and effectively prevent pollution at its source—in the fuels, while those fuels are being burned, or before the fumes reach the air?

*To carry out our efforts to fight air pollution, I am seeking some $128 million for Fiscal 1969—more than we have committed in any past year.*

I have directed the Secretary of Health, Education, and Welfare to designate the Nation's principal Air Quality Control Regions within the next few months, and to publish Air Quality criteria and related information on control techniques. This information will give States, local governments and industry the cost and control data they need to carry out their responsibilities.

One day we will have clean air over America—but only if all levels of Government and industry work closely and conscientiously. The legislation now on the books provides the framework for a partnership without precedent, matching the dimension of the need. The problem deeply affects us all, and all of us share the responsibility for solving it.

I am confident that those responsibilities will be carried out—and that we can return to the American people a fundamental right of their national heritage: the right to breathe clean air.

ASSISTANCE IN HARDSHIP CASES

We have looked carefully into the question whether water and air pollution control will have a serious economic impact on American industry.

According to recent studies, the cost should be small for most firms.

In some cases, however, pollution control costs may present undue financial hardships to both a business and a community. *I have asked the Secretary of Commerce and the Administrator of the Small Business Administration to give priority attention to providing assistance in these hardship situations.*

AIR AND WATER POLLUTION FROM FEDERAL INSTALLATIONS

In the field of pollution, it is not enough for an enlightened Federal government to stimulate the work of the States, localities and private industry. It must also set a good example for the Nation.

Across America, federal installations are adopting the latest air and water pollution control methods. During the coming year, that effort will be intensified.

We expect to devote $53 million to the task, for thirteen separate federal agencies and 360 air and water pollution abatement projects.

NOISE CONTROL

What was once critically described as "the busy hum of traffic" has now turned into an unbearable din for many city dwellers.

The crescendo of noise—whether it comes from truck or jackhammer, siren or airplane—is more than an irritating nuisance. It intrudes on privacy, shatters serenity and can inflict pain.

We dare not be complacent about this ever-mounting volume of noise. In the years ahead, it can bring even more discomfort—and worse—to the lives of people.

*I am directing all departments of Government to take account of noise factors in choosing the location and design of buildings, highways and other facilities whose construction is assisted by Federal funds.*

*I also urge the Congress to take prompt action on legislation to strengthen the authority of the Secretary of Transportation to deal with aircraft noise.* We need greater capacity to deal with the rapidly growing noise problem created by our expanding air transportation system.

SURFACE MINING

An air traveler over some of the richest country in America can look down upon deep scars gouging the earth, acres of ravaged soil stretching out on either side.

Advances in mining technology have allowed us to extract the earth's minerals economically and swiftly.

But too often these new techniques have been used unwisely and stripping machines have torn coal and other minerals from the surface of the land, leav-

ing 2 million acres of this Nation sterile and destroyed. The unsightly scars of strip mining blight the beauty of entire areas, and erosion of the damaged land pours silt and acid into our streams.

Under present practices, only one-third of the land being mined is also being reclaimed. This start has been made by responsible individuals, by mining companies, and by the States that have already enacted laws to regulate surface mining.

America needs a nationwide system to assure that all lands disturbed by surface mining in the future will be reclaimed. This can best be achieved through cooperative efforts between the States and the Federal Government.

*I propose the Surface Mining Reclamation Act of 1968.* Under this Act:

—Criteria will be established which the States will use in developing their own regulatory plans.

—The States, assisted by Federal grants, will develop their own plans within two years and submit them to the Secretary of the Interior for review and approval.

—The Secretary will impose Federal standards if the State plans are inadequate or if they are not submitted.

Surface mining also occurs on Federal lands. To enable Government to take the lead in this important conservation effort, I have directed that:

—Federal Agencies assure that their regulations require the reclamation of Federal lands leased for surface mining.

—From now on, Federal contracts for the purchase of coal and other surface-mined minerals contain effective reclamation clauses.

SOLID WASTE DISPOSAL

In 1965, I recommended and the Congress approved a national planning, research and development program to find ways to dispose of the annual discard of solid wastes—millions of tons of garbage and rubbish, old automobile hulks, abandoned refrigerators, slaughterhouse refuse. This waste—enough to fill the Panama Canal four times over—mars the landscapes in cities, suburbia and countryside alike. It breeds disease-carrying insects and rodents, and much of it finds its way into the air and water.

The problem is not only to learn how to get rid of these substances—but also how to convert waste economically into useful materials. Millions of dollars of useful by-products may go up in smoke, or be buried under the earth.

Already scientists working under the 1965 Act have learned much about how soils absorb and assimilate wastes. States and local communities have drawn up their plans for solid waste disposal.

That Act expires in June, 1969.

*To continue our efforts, I recommend a one-year extension of the Solid Waste Disposal Act.*

In addition, *I am directing the Director of the Office of Science and Technology working with the appropriate Cabinet officers to undertake a comprehensive review of current solid waste disposal technology.* We want to find the solutions to two key problems:

—How to bring down the present high costs of solid waste disposal.

—How to improve and strengthen government-wide research and development in this field.

AGRICULTURAL WASTES

The new agricultural and land management techniques that increase the productivity of our farms have also brought new problems:

—Soil and other substances polluting our streams are the result of the erosion of farmlands and other areas. This cause of pollution has never been fully controlled and rapidly expanding suburban development has aggravated it.

—Added amounts of animal wastes are generated from the efficient concentration of cattle, hogs and sheep in feed lots.

We must not permit harmful effects on fish, other wildlife and on drinking water supplies of chemicals from fertilizer and pesticides—whatever their source.

Many of these problems can be dealt with through existing programs. But some will require new research and new approaches.

*I am instructing the Secretary of Agriculture to conduct a government-wide review of these problems.*

THE SPLENDOR OF A CONTINENT

Before anything else, Americans had the splendor of a continent. Behind the facade of our cities, beyond the concrete ribbons that connect them, much of that splendor remains.

It is there because men of vision and foresight—men like Gifford Pinchot, Theodore Roosevelt and Franklin Roosevelt—determined that the people's oldest legacy, the inheritance of a spacious land, must be preserved.

It is for each generation to carry on that work.

In our time, the task has become more difficult—but ever more urgent. Our numbers grow, our cities become more crowded, the pace of our lives quickens—but man's need to raise his spirits and expand his vision still endures.

A clear stream, a long horizon, a forest wilderness and open sky—these are man's most ancient possessions. In a modern society, they are his most priceless.

NATIONAL PARKS AND RECREATION AREAS

In the past several years, we have authorized the addition of more than 2.2 million acres to the Nation's Park System.

*We are actually preserving more lands—over 1.7 million acres in 1967—for conservation and the recreational enjoyment of America's families than the bulldozer and power shovel are taking over.*

A park, however splendid, has little appeal to a family that cannot reach it.

The magnificent areas preserved in the early days of conservation were remote from the cities—and many Americans had to travel half a continent to visit them.

The new conservation is built on a new promise—to bring parks closer to the people. The man who works hard all week—the laborer, the shopkeeper, the subway rider—deserves a chance to escape the city's crush and congestion. He should have the opportunity to give his children a weekend of recreation and beauty and fresh air.

To provide this chance is the purpose of our program.

In the last several years, 32 of the 35 areas set aside by the new conservation—seashores, lakeshores, and parks—were located near large urban centers—North, West, East, and South. They are within easy driving distance of 120 million of our people. For example:

—The resident of New York City can within an hour or so reach the beaches and waters of the Fire Island National Seashore, established in 1965.

—A family living in the Washington, D.C. area has—since 1965—been able to enjoy the advantages and scenic wonders of Assateague Island National Seashore, only three hours away by car.

—Citizens of Chicago will soon be able to visit the conveniently located Indiana Dunes National Lakeshore, whose development began last year.

—A father in Kentucky can take his son hunting and camping in the new "Land Between the Lakes" recreation area, which will serve millions of Americans in the Southeast.

—Boy Scout troops in the Southwest can explore and hike through the Guadalupe National Park in Texas.

—People in North Carolina will have easy access to the Cape Lookout National Seashore, now underway.

In 1967, almost 140 million visits were made to National Park areas. These visits are increasing steadily—a tribute to the quality and importance of our parks. It is also a signal that more parks are needed.

Paramount among our last-chance conservation opportunities is the creation of a Redwood National Park in Northern California to preserve the tallest, most ancient sentinels of nature on the American continent. A park in this region would benefit millions of Americans living on the West Coast who could reach the park within an afternoon's drive.

*I urge the House to seize this opportunity and complete action on a Redwood bill this year.*

I also recommend that the House complete action on two other major additions to the Park System that we sought and the Senate approved last year:

—*North Cascades National Park* in Washington State, the American Alps, an unsurpassed spectacle of mountain beauty in the great Northwest.

—*Apostle Islands National Lakeshore,* along Wisconsin's most scenic water areas.

We can achieve a new concept in conservation—greater than a park, more than the preservation of a river—by beginning this year to make the Potomac a living part of our national life.

That great river, coursing through Maryland, Virginia and West Virginia, cradles much of our early history. Five million people live within 50 miles of its shores, and its legend beckons millions more from every part of the Nation. For the Potomac is truly the American River.

*I urge the Congress to authorize the development of a uniquely historic area—the Potomac National River. Failure to act now will make us the shame of generations to come.*

SCENIC TRAILS, RIVERS AND WILDERNESS AREAS

The urgent work of conservation leads us into three other areas.

A citizen should be able to leave his car behind and explore a scenic trail on foot, by bicycle or horse. He can do that if we establish a nationwide network of scenic trails, many near our large cities and through historic areas. *Once again, I urge the Congress—as I did last year—to authorize a network of scenic trails.*

"The time has come," I said in 1965, "to identify and preserve free-flowing stretches of our great scenic rivers before growth and development make the beauty of the unspoiled waterway a memory."

Let this be the session of Congress that grasps the opportunity.

Last year the Senate passed a bill to save seven wild rivers and five scenic rivers. *I urge the Congress to complete action this year on legislation which would establish a scenic rivers system.*

One of the greatest delights for an American is to visit a primitive area of his land in its natural splendor.

In 1964, the Congress passed the Wilderness Act—a milestone in conservation policy. It permits the Government to set aside, at little cost to the taxpayer, some of the truly unspoiled areas of our continent.

Last year I asked the Congress to add the first four wilderness areas to the system: San Rafael in California, Mount Jefferson in Oregon, San Gabriel in California, and Washakie in Wyoming.

*I urge the Congress to complete action on these wilderness areas.*

*I am today recommending the addition of seven new areas to the wilderness system, embracing more than 400,000 acres of mountain and forest and lake. These new wilderness areas are:*

—Mt. Baldy in Arizona's Apache National Forest.

—The Desolation Wilderness in California's Eldorado National Forest.

—The Flat Tops, in Colorado's Routt and White River National Forests.

—Pine Mountain in Arizona's Prescott and Tonto National Forests.

—The Spanish Peaks, in Montana's Gallatin National Forest.

—The Ventana Wilderness in California's Los Padres National Forest.

—Sycamore Canyon in Arizona's Coconino, Kaibab, and Prescott National Forests.

We are now surveying unspoiled and primitive areas in Arkansas, Oklahoma, Georgia, and Florida as further possible additions to the Wilderness system.

THE LAND AND WATER CONSERVATION FUND

The machinery to finance the acquisition of Federal recreation lands and to help the States plan, acquire, and develop their own parks and forests is provided by the Land and Water Conservation Fund.

That Fund draws upon revenues from motorboat fuel taxes, Federal recreation area admission charges, and proceeds from the sale of surplus Federal lands.

*For Fiscal 1969, I recommended new obligational authority of $130 million for the Land and Water Conservation Fund—an increase of $11 million over 1968.*

But this alone may not be enough. The need for more recreation acreage to serve our growing population—along with rising land costs—requires that the Land and Water Conservation Fund be enlarged.

The longer we wait to acquire land for recreational purposes, the more those lands will cost.

A suitable addition to those sources of revenues now authorized can be found in the receipts from our mineral leases in the Outer Continental Shelf. That Shelf belongs to the people, and it is only right that revenues from it be used for the people's benefit. *I recommend that the Congress authorize the use of part of these revenues to augment the Land and Water Conservation Fund to raise it up to a level of $200 million a year for the next five years.*

THE NATION'S HIGHWAYS

More than any other mark we make upon the land, the signature of mid-20th Century America is found in the more than 3 million miles of highways that cross and link a continent.

It is not enough that those highways be roads of utility. They must also be safe and pleasant to travel.

We have embarked on a major campaign to make them safe, in the Highway and Traffic Safety Acts of 1966.

In 1965—in the Highway Beautification Act—we set out to make them attractive. In partnership with the States, we determined to remove and control the eyesores that mar the landscape—auto graveyards, unsightly billboards, junk heaps.

Early last year I asked the Congress to extend that Act—which expired on June 30, 1967—for two additional years. The Senate passed a one-year extension. It is still awaiting House action. The Highway Beautification Act represents an important item of unfinished business before the Congress. *I urge the Congress to complete action on the bill so that we can get on with the job of making America a more beautiful place to live.*

Our highways must be in harmony with the communities and countrysides of which they are part. Too often in the past, this need has received little more than lip service.

A distinguished Citizens' Advisory Committee on Recreation and Natural Beauty, under the Chairmanship of Mr. Laurance Rockefeller, has reported: "Highways have effects that reach far beyond those who drive on them; yet our present devices for choosing locations are still based mostly on requirements of the highway user rather than the community at large."

Under the new authority in the Department of Transportation Act, we are moving now to assure that natural beauty and recreational factors are woven into the highway and freeway planning process, along with traditional engineering and cost considerations.

—The Secretary of Transportation is requiring States to give full consideration to the views of local groups—and private citizens in preparing their route selections for Federally-supported highways.

—The Secretaries of Transportation, Housing and Urban Development, Interior, and Agriculture will review exceptional cases which raise questions concerning a proposed highway route's impact on scenic and historic values.

ROADSIDE PARKS

A highway should not be an unending ribbon of concrete from point to point.

American families traveling on their roads should be able to stop, to stretch their legs, to open a picnic lunch and relax before going on their way.

A park along the roadside—with landscaped grounds, an outdoor stove and tables, a path to explore—should be part of every travel experience. These way stations are not expensive. But they can add immeasurably to the comfort and enjoyment of a family on a trip.

*I have directed the Secretary of Transportation to work with the Governors and Highway Commissioners of each State on a priority program to increase substantially the number and quality of rest and scenic areas along the Federal-aid Highway System.*

VOLUNTEERS FOR CONSERVATION

All across America, men and women, boys and girls are making their cities and communities better places to live. In garden clubs and civic leagues, in Scout troops, 4–H clubs, and Junior Chambers of Commerce, they are planting and painting, cleaning and building, growing and repairing.

This is the army of conservation volunteers, and they number in the millions.

I propose this action program for volunteers to make America a place of beauty, enriching its communities and raising the spirits of their people, volunteers to:

—Increase local conservation efforts in every community, through the full participation of all citizens.

—Extend the National Paint-Up, Clean-Up, Fix-Up Week, now an annual event, to a seasonal event, four times a year.

—Encourage every city to beautify its approaches, through the planting of trees, shrubs and flowers native to the area.

—Impress upon every citizen the contribution he can make simply by observing the "No Litter' signs as he drives along the highway and walks along the street. Clean-up is costly. For example, it takes $2,000 of the taxpayers' money each year to keep each mile of highway leading into the Nation's capital free of refuse.

—Call upon the news media to encourage the conservation work of local groups. Television and radio stations, which are granted the public airways, have a special obligation to highlight these worthy public events.

The volunteer work for conservation deserves recognition and honor. It deserves help in mobilizing for greater efforts in the years ahead.

*Accordingly, I am asking the President's Council on Recreation and Natural*

*Beauty and the Secretary of the Interior in cooperation with the Governors and Mayors to join with private organizations in sponsoring a series of regional workshops to focus attention on those areas where greater private conservation efforts would be particularly productive.*

THE OCEANS

The seas are the world's oldest frontiers. As Longfellow observed, they not only separate—but unite—mankind.

Even in the Age of Space, the sea remains our greatest mystery. But we know that in its sunless depths, a richness is still locked which holds vast promise for the improvement of men's lives—in all nations.

Those ocean roads, which so often have been the path of conquest, can now be turned to the search for enduring peace.

The task of exploring the ocean's depth for its potential wealth—food, minerals, resources—is as vast as the seas themselves. No one nation can undertake that task alone. As we have learned from prior ventures in ocean exploration cooperation is the only answer.

*I have instructed the Secretary of State to consult with other nations on the steps that could be taken to launch an historic and unprecedented adventure—an International Decade of Ocean Exploration for the 1970's.*

Together the countries which border the seas can survey the ocean's resources, reaching where man has never probed before.

We hope that those nations will join in this exciting and important work.

Already our marine technology gives us the ability to use the ocean as a new and promising source of information on weather and climate. We can now build and moor electronic buoys in deep water. Unattended, these scientific outposts can transmit to shore data for accurate long-range forecasts.

The benefits will be incalculable—to farmers, to businessmen, to all travelers.

*This year we can begin development of improved ocean buoys. I urge the Congress to approve my request for $5 million in the Fiscal 1969 Coast Guard budget for this program.*

As we turn more and more of our attention to the exploration and the promise of the seas, America must train more ocean scientists and engineers.

In 1966, I signed the National Sea Grant College and Program Act. This new partnership between the Federal Government and the Nation's universities will prepare men and women for careers in the Marine Sciences.

*I recommend that the Congress appropriate $6 million in Fiscal 1969 to advance this program.*

THE CRISIS OF CHOICE

Three years ago, I said to the Congress: ". . . beauty must not be just a holiday treat, but a part of our daily life."

I return to that theme in this message, which concerns the air we breathe, the water we drink and use, the oceans that surround us, the land on which we live.

These are the elements of beauty. They are the forces that shape the lives of all of us—housewife and farmer, worker and executive, whatever our income and wherever we are. They are the substance of The New Conservation.

Today, the crisis of conservation is no longer quiet. Relentless and insistent, it has surged into a crisis of choice.

Man—who has lived so long in harmony with nature—is now struggling to preserve its bounty.

Man—who developed technology to serve him—is now racing to prevent its wastes from endangering his very existence.

Our environment can sustain our growth and nourish our future. Or it can overwhelm us.

History will say that in the 1960's the Nation began to take action so long delayed.

But beginning is not enough. The America of the future will reflect not the wisdom with which we saw the problem, but the determination with which we saw it through.

If we fail now to complete the work so nobly begun, our children will have to pay more than the price of our inaction. They will have to bear the tragedy of our irresponsibility.

The new conservation is work not for some Americans—but for all Americans. All will share in its blessings—and all will suffer if the work is neglected. That work begins with the family. It extends to all civic and community groups. It involves city hall and State capitol. And finally it must engage the concern of the Federal Government.

I urge the Congress to give prompt and favorable consideration to the proposals in this Message.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *March 8, 1968.*

## INTERFERENCE WITH CIVIL RIGHTS

The Senate resumed the consideration of the bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

AMENDMENT NO. 562

Mr. ERVIN. Mr. President, I call up my amendment No. 562 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. On page 2, line 17, after the word "force" and before the word "willfully" insert the following: ", sufficient to constitute an assault,".

Mr. ERVIN. Mr. President, I wish to have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ERVIN. Mr. President, this is a very simple amendment to carry out a fundamental principle of criminal law. The Dirksen substitute provides that whoever, whether acting under cover of law or otherwise, by force or threat of force, willfully injures, and so forth. Under the Dirksen amendment it would be a crime to utter a mere verbal threat of force even if the one uttering it had no intention of carrying it out or was, in fact, incapable of carrying it out.

Common law recognizes that the most dangerous thing that can be done in the field of criminal law is to create a crime which does not have a real corpus delicti. For example, no man can be convicted of murder unless there is a corpus delicti which must be proved by the existence of a corpse bearing indications of a violent death.

All my amendment would do would be to provide that before a threat could constitute a crime under the Dirksen substitute, the threat must be sufficient to constitute an assault. An assault is an offer or an attempt by force or violence to do corporal hurt to another accompanied by a present intention of carrying out the threat and at least an apparent ability to do so. Under the bill as phrased, a mere threat of force which vanishes with the speaking is made a crime. Hence, there is really no corpus delicti of such a crime.

I cannot imagine anything which would enable a tyrannical government to harass citizens more unjustly than to make criminal a mere spoken word which vanishes with its speaking.

I urge the Senate to adopt my amendment.

Mr. LONG of Louisiana. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. LONG of Louisiana. The Senator's amendment reminds us of the ancient days in England, when a crime was avoided when one Englishman of that day said to another, "Were it not assize time, I would run thee through." That meant with a sword, of course. Had it not been assize time, that is, when the court was sitting, he would have used his sword against his adversary. But inasmuch as the court was sitting, the inference was that he was not going to do so. The court held that that was not an assault.

That is the situation here, for a man to make a criminal threat, without the capability or intention of carrying it out, would not constitute an assault and therefore would not be an offense.

Mr. KENNEDY of Massachusetts. Mr. President, I hope that the pending amendment will be rejected. Once again this is a matter which was brought up before the full Judiciary Committee, was examined in some detail and given full consideration, and was then rejected by the membership of the Judiciary Committee.

The language as to threats and intimidation included in the present bill is generally understood as being boilerplate language. We have passed legislation in the 90th Congress, legislation reported out of the Judiciary Committee, which has the same language in it. That is utilized in this legislation. It was in fact accepted and supported by the distinguished Senator from North Carolina at that time. It was never suggested at that time that we should have this additional language on assault which he is suggesting we should include in the bill now before us.

By including it into this legislation, what we would really be doing would be trying to build in 50 different versions of the bill since every State has a different definition and judicial interpretation as to what would constitute an assault. The coverage would vary extensively through-

out the 50 States. That in and of itself should be enough to defeat the amendment, and to cause considerable concern by Senators.

Going to the substance of the issue, it would eliminate what has been testified to time and time again before the Judiciary Committee as a critical area for legislation. For example, if we were to include the language of the Senator from North Carolina, we would eliminate the possibility of threats which might occur over the telephone. We know that there are a number of threats which certainly intimidate individuals but which would not constitute an assault. Certainly these pose a danger to the security of the people of this country.

Thus, I hope first of all, that the amendment will be rejected, because this language was considered and rejected by the Judiciary Committee, after a considerable amount of discussion and, second, because we would have 50 different interpretations of what would constitute an assault if we were to include the language of the Senator from North Carolina in this bill.

Third, as a matter of substance, if we include the "assault" language, we would, under any one of the 50 interpretations, end up with a very narrow coverage inadequate to meet a demonstrated need.

Mr. JAVITS. Mr. President, will the Senator yield on my time? I yield myself 30 seconds.

Mr. KENNEDY of Massachusetts. I yield.

Mr. JAVITS. If the one who made the threat really had the capacity to carry through on his threat, that is the classic definition of "assault." That would add an element of proof which would make it very much more difficult to prove what we are trying to penalize, even though it was made without question.

Mr. KENNEDY of Massachusetts. That is correct. I want to point out at this time that there are many Federal criminal statutes that prohibit threats, without defining them as assaults. The United States Code is replete with examples: For example, title 18, United States Code, section 871, "Threats against the President," title 18, United States Code, section 874, "Kickbacks from Public Works Employees," title 18, section 875, "Communications in Interstate Commerce." There are other examples which demonstrate clearly that the language of the Dirksen substitute follows a standard pattern.

I think this amendment should be defeated.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, in reply to the argument of the Senator from Massachusetts, I would like to say that this amendment was defeated in the Judiciary Committee by a vote of 8 to 7, after the administration had the distinguished Senator from Pennsylvania [Mr. SCOTT] flown clear across the Atlantic to cast the deciding vote.

I gave the definition of "assault" in my previous argument, which definition is accepted in every jurisdiction where the English language is spoken. There would be no confusion as to the definition of "assault." It is right there in the RECORD, which reflects the legislative history of the amendment.

It is true that there are other Federal statutes that make a mere threat a crime, but that is no reason to make more bad laws. There has been murder in every generation. There has been stealing in every generation. But the fact that they have occurred in every generation does not make murder meritorious or larceny legal.

I hope the Senate will adopt the amendment.

Mr. SCOTT. Mr. President, the Senator from North Carolina mentioned my name and mentioned the fact that it was my vote that brought the bill out of committee. I want again to point out my pride in that. I will always be glad to fly to do right.

The present bill limits the use of the word "threat" to a threat of force, thus excluding vague threats or economic threats or other hostile action. Since only a threat of force is involved, no bodily injury would result, so this body of the act involves only a misdemeanor.

I hope the amendment will be defeated.

Mr. COOPER. Mr. President, I yield myself 1 minute.

I would agree with the interpretation given by the distinguished Senator from Massachusetts and the distinguished Senator from New York, unless they are saying that an offense could be based on mere words. Is that the intention of those managing the bill? If it is, I shall vote for the amendment of the Senator from North Carolina. Yesterday, during a long discussion over an amendment I offered, I argued that an offense could not be based on mere words.

Mr. TYDINGS. Mr. President, in answer to the Senator from Kentucky, if the threat was a voice threat and the person who received that threat was fearful that the threatened action would be taken, even though that threat was not ultimately in fact carried out, that would be a sufficient threat of force. That is our interpretation of the language.

For instance, if one gets a call in the middle of the night and a voice says that if he or his family are at school in the morning, his house will be burnt down, and the receiver of that threat believes it will be carried out, that is a sufficient threat of force.

Mr. COOPER. Mr. President, I do not want to use up all my time, but I shall take another minute. The Senator from Maryland has been a U.S. attorney, and is a very able lawyer. Would he argue that there are criminal statutes under which a person could be convicted for an offense of that kind? Take a man who goes on a platform and threatens to bring destruction on a whole group of people before him. Under the Constitution, it is said that he is engaging in free speech unless there is injury or threat of injury. Now it is being argued that if there is a threat over the telephone, the man who makes the call can be punished. I do not think that is the requirement of the language. It is far beyond the intent of the bill.

Mr. JAVITS. Mr. President, I yield myself 30 seconds. This says threats of force. There are at least two statutes which say the same thing: One, threats against the President, title 18, United States Code, section 871; second, communications in interstate commerce, threatening to kidnap or injure any person, title 18, United States Code, section 875. That is by mail, telephone, or anything. Would the Senator say there should not be penal statutes to cover that?

Mr. COOPER. No. There are special reasons for those provisions, but here there is an attempt to invoke mere language as constituting interference with a person.

Mr. HOLLAND. Mr. President, I yield myself 2 minutes.

Mr. President, I hope this amendment will be adopted. The Senator from Florida, as a law enforcement officer in the past, has had some experience with mobs. That is another kind of riot. He has had some experience with the kind of controversy we are talking about.

If you leave the bill as it is now, it means you are inviting a multiplicity of suits and prosecutions the like of which this Nation has never seen. When you get a mob of 1,000 people yelling, "Let's take him. We'll handle him. We'll do this, that, or the other," under this bill every one of them could be proceeded against criminally, whereas nobody has any such real notion at all. They are all swept away by the heat of the moment.

It is plain foolishness to put a provision in this bill which will, if it becomes law, invite prosecutions against literally thousands of people who have no intention in the world to carry through with any real, serious threat. If you have been up against a riot, if you have been up against a mob, if you have been trying to stop a lynching, as I have on several occasions, you know what people like that are saying. They are hollering, "Let's get him. Let's take him. Let's do this or that." That is a threat, and yet without any intent of going through with it, because here is a devoted group of officers with guns in hand or perhaps only one brave sheriff, who are not going to permit it, and the members of the howling crowd know that they do not have the remotest idea of going through with it.

I think the bill should be so amended. I agree with the Senator from Kentucky that there must be more in this bill than the provision that the mere threat to deprive a person of a civil right in the heat of the moment can be considered a Federal offense, and thereby further encumber our already overworked Federal courts.

Mr. KENNEDY of Massachusetts. Mr. President, I think it is important that we try to realize exactly what kind of threat we are attempting to preclude or proscribe.

What we are talking about is threats of violence; we are not talking about vague threats of possibly denying someone the free exercise of his civil rights, but the threat of violence.

We had constant examples, during our hearings, to show the extent and seriousness of the problem—threatening telephone calls in the night, and all kinds of harassments, which actions nevertheless would certainly, under the defini-

tion of assault which has been provided by the distinguished Senator from North Carolina, never be covered.

It is important that the Senate realize, if we pass this amendment, that we shall be seriously restricting one of the most important and significant aspects of the intended coverage of this legislation.

It has been argued that the language under consideration is something unique. Mr. President, it is not unique, as pointed out previously by myself and the Senator from New York. The Senator from North Carolina has even supported it himself, on other occasions.

Mr. ERVIN. I ask the Senator from Massachusetts when I did.

Mr. KENNEDY of Massachusetts. In the case of S. 676, which was passed last year and signed by the President, after being favorably reported by the Committee on the Judiciary.

Mr. ERVIN. What does it deal with?

Mr. KENNEDY of Massachusetts. Obstruction of criminal investigations. That act contains exactly the same language.

Mr. ERVIN. That is quite a different thing, obstructing the processes of the Government. There must be additional evidence showing the obstruction.

Mr. KENNEDY of Massachusetts. I think this is certainly of equal or greater importance. Other statutes, too, have included this language; and the interpretation of the language is rather clear, as far as court decisions are concerned.

I certainly hope and urge that the amendment be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

I rise in support of the amendment. As the distinguished Senator from North Carolina has stated, the committee rejected it by an 8-to-7 vote. That shows the close consideration given it in the committee.

I think we shall be treading on dangerous ground if we make the violation of the law, as stated now, consist merely in force or threat of force, if we do not add sufficient language to constitute it an assault.

An assault is an attempt, coupled with the present and apparent ability of a person to do harm to the person of another. If you make a threat, if you do not have the ability to carry it out, it does not become an assault. For instance if I have a broom, and strike at somebody close enough that I can hit him, that is an assault. If the person at whom I strike is on the other side of the room, and I strike at him with a broom, it is not an assault. If I have a pistol, and shoot at somebody on the other side of the room, that is an assault even though I am not close to him, because I have the present apparent ability to do violence or harm to the person of another. A battery is a completed assault; that is where you actually hit him.

It seems to me we will really establish a dangerous precedent here if we do not include the wording of the able Senator from North Carolina, so that the bill would read:

Whoever, whether or not acting under color of law, by force or threat of force, sufficient to constitute an assault—

That means the ability must be present to do harm to someone, otherwise there is no assault.

I ask that a colloquy which I had with the Attorney General of the United States on this subject be placed in the RECORD.

There being no objection, the excerpt from the hearing was ordered to be printed in the RECORD, as follows:

Senator THURMOND. I have been informed that you indicated earlier that a telephone conversation could possibly violate section 245 as a threat of force. Is that correct?

Attorney General CLARK. Yes, if a telephone conversation should be under circumstances that would constitute a threat against the life of a person, and the call is based upon race or the other conditions prescribed in the statute, and if it is made because of one of the eight activities delineated in the bill, it would constitute a crime.

Senator THURMOND. To better understand the scope of this bill, I would like to propose a couple of fact situations which might indicate proscribed action under section 245.

Suppose we have a situation involved in *South Carolina* v. *Edwards*, where a group of Negroes are demonstrating on the grounds of the State capitol, and a group of white men come up, and in no uncertain language tell the Negroes they must leave, or else. Let us further suppose that the Negroes leave. Is it possible that there has been a threat of force because of race and because these Negroes were demonstrating on State property?

Attorney General CLARK. All they said was "You must leave, or else."?

Senator THURMOND. Yes.

Attorney General CLARK. I do not believe one decides whether or not to prosecute with those bare circumstances. I think you would have to see and know from the witnesses the total context. If in fact, under all the circumstances, that can constitute a threat of bodily injury, if it was done because of race, and if it was done because they were engaged in a lawful activity on State property, then it could constitute a violation of this act.

Senator THURMOND. You are familiar with that case of *South Carolina* v. *Edwards?*

Attorney General CLARK. Yes, sir.

Senator THURMOND. I just wondered how you reconcile your answer with that decision.

Attorney General CLARK. Well, you are talking about the way the court construed the facts. You gave me a hypothetical. You said a situation like that in the case. And I said I would have to know all the circumstances.

Senator THURMOND. Now, notwithstanding the part of section 245 which proposes to protect policemen, suppose a police officer with other citizens prevents a group of black power people from using the concert hall in a city where there had been recent racial trouble, but on the same night the police allowed the white people to have a meeting of the white citizens group. Is there a possibility of violation here?

Attorney General CLARK. One would have to know much more about the facts than what you have stated. From what you have stated generally it does not sound like it. I do not know if the police were acting in accord with some lawful regulation of the city or the nature of their conduct.

Senator THURMOND. In the light of the clear-and-present-danger text, I would like to know how Congress can pass a law which prohibits mere expressions of words which may constitute a threat of force.

Attorney General CLARK. Congress has done that a number of times, where the threat is to the life, the property of individuals, just as the States have done it. That is not an expression of opinion. It is a threat to do bodily injury, and any society must protect itself against such threats. The Congress has the power to do so, as is demonstrated by the fact that it has done so, and its actions have been sustained.

Senator THURMOND. I question the right of Congress under the 14th amendment to protect a person against wrong doing by individuals.

Let us assume that there is a valid substantive evil which Congress can reach, and discuss the cases regarding the first amendment right of free speech.

This letter, I believe, has already been put in the record. I am going to quote an excerpt from it. It was written by J. Walter Yeagley:

"Statutes that prescribe or make publishable written or spoken words as distinguishable from acts, action or other activities, must be read in the light of that amendment, which provides that Congress shall make no law abridging freedom of speech. Hence the judicial decisions make it clear that before any form of speech can be suppressed, there must be convincing evidence that grave harm and danger to the Nation would otherwise follow. Such a consideration led to the famous clear and present danger doctrine first enunciated by the Supreme Court in the case of *Schenk* v. *United States*. Through the years this doctrine has been imposed as a guide by the courts in determining the constitutionality of restrictions on the right of free speech and free press. Under this doctrine freedom of speech and of the press is susceptible of restrictions only when necessary to prevent grave and immediate danger to interests which the government may lawfully protect. Writing for a unanimous Court in Schenck, Justice Holmes stated the classic principle:

" 'The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree.' "

Senator ERVIN. Excuse me for interrupting. There is a rollcall vote.

Senator THURMOND. Do you think you can reconcile what you said with the statement I have just read here?

Attorney General CLARK. Yes. I do not believe there is any difficulty in reconciling it. The protection of lives and property of citizens is the first purpose of government. If South Carolina chooses to make it a crime to threaten to kill the Governor or other public officials of the State, and someone makes such a threat with the purpose and the capability of carrying it out, then clearly that person has committed an offense against the State of South Carolina. And the courts have never had any difficulty of sustaining convictions for that sort of conduct under that sort of statute.

We have a Federal assault statute—a number of them.

Mr. THURMOND. Mr. President, I hope the Senate will agree to the amendment. I believe it is a very sound amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 562) of the Senator from North Carolina.

Mr. GRIFFIN. Mr. President, I should like to ask the Senator from North Carolina a question about his amendment, if I may.

Mr. ERVIN. Do I understand the Senator will ask his question on his own time?

Mr. GRIFFIN. On my time.

Mr. ERVIN. Very well.

Mr. GRIFFIN. I am not clear as to the effect of the adoption of the Senator's amendment. If your proposed in-

sertion should be agreed to, would a telephone call, making the threat "If you do such-and-such, I will kill you tomorrow," be covered under the Dirksen substitute, as amended? Certainly the act of killing somebody else would be an act of force, if carried out, sufficient to constitute an assault. However, in this case, the threat would be of sufficient force only if carried out in the future. Would this telephone threat be covered under the Dirksen substitute if your amendment is agreed to?

Mr. ERVIN. It would be covered under the original bill, but not under my amendment, because, in that case, there would not be either the requisite intent or the present ability to carry it out. Besides, the telephone threat is conditional.

Mr. GRIFFIN. Am I correct in stating then that the purpose of the Senator's amendment would be to preclude any such threat from coverage, no matter how real the threat, if it is not subject to immediate execution?

Mr. ERVIN. The threat, under my amendment, would have to be sufficient to constitute an assault. In other words, it would have to be an offer or an attempt to do bodily injury to another by force, coupled with the apparent present ability to execute such offer or attempt, and coupled with the present intention of carrying the threat into effect.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 562) of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana [Mr. HARTKE], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Georgia [Mr. RUSSELL], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from Rhode Island [Mr. PASTORE]. If present and voting, the Senator from Florida would vote "yea," and the Senator from Rhode Island would vote "nay."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Illinois [Mr. PERCY], and the Senator from Kentucky [Mr. MORTON] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

If present and voting, the Senator from Illinois [Mr. PERCY] would vote "nay."

The result was announced—yeas 31, nays 57, as follows:

[No. 42 Leg.]

YEAS—31

| | | |
|---|---|---|
| Bennett | Ellender | Hickenlooper |
| Byrd, Va. | Ervin | Hill |
| Carlson | Fannin | Holland |
| Cooper | Fulbright | Hollings |
| Curtis | Hansen | Hruska |
| Eastland | Hayden | Jordan, N.C. |
| Jordan, Idaho | Murphy | Tower |
| Long, La. | Sparkman | Williams, Del. |
| McClellan | Stennis | Young, N. Dak. |
| Miller | Talmadge | |
| Mundt | Thurmond | |

NAYS—57

| | | |
|---|---|---|
| Aiken | Gore | Mondale |
| Allott | Griffin | Monroney |
| Anderson | Gruening | Montoya |
| Bartlett | Hart | Morse |
| Bayh | Hatfield | Moss |
| Bible | Inouye | Muskie |
| Boggs | Jackson | Nelson |
| Brewster | Javits | Pearson |
| Brooke | Kennedy, Mass. | Pell |
| Burdick | Kennedy, N.Y. | Prouty |
| Byrd, W. Va. | Kuchel | Proxmire |
| Cannon | Lausche | Randolph |
| Case | Long, Mo. | Ribicoff |
| Church | Magnuson | Scott |
| Clark | Mansfield | Smith |
| Cotton | McCarthy | Spong |
| Dodd | McGee | Symington |
| Dominick | McGovern | Tydings |
| Fong | Metcalf | Williams, N.J. |

NOT VOTING—12

| | | |
|---|---|---|
| Baker | McIntyre | Russell |
| Dirksen | Morton | Smathers |
| Harris | Pastore | Yarborough |
| Hartke | Percy | Young, Ohio |

So Mr. ERVIN's amendment (No. 562) was rejected.

AMENDMENT NO. 663

Mr. ERVIN. Mr. President, I call up my amendment (No. 563) and ask that it be stated.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 23, strike out lines 11 and 12.

Mr. ERVIN. Mr. President, this is an amendment which would strike out the provision of the Dirksen substitute allowing reasonable attorney fees to the prevailing plaintiff. When the amendment was originally introduced, all these words were on lines 11 and 12, of page 23. When the Dirksen substitute was proposed, it was put on several other lines and a new context. In order to present the same question, I ask unanimous consent that I may modify my amendment so as to strike out these words on page 23 "and reasonable attorney fees in the case of a prevailing plaintiff."

The PRESIDING OFFICER. Is there objection?

Mr. HART. Reserving the right to object, I am advised that in the Dirksen substitute the phrase about which the Senator is now talking appeared twice; that in the star print it was corrected, so that it appeared just once. The purpose of the Senator from North Carolina is to strike the one remaining reference?

Mr. ERVIN. Yes.

Mr. HART. Further reserving the right to object, but only for the purpose of clarification, we have an impression that there was another amendment that had some reference to the ability of a litigant to pay. Our impression is that it was the Senator from West Virginia who offered an amendment of that character which was adopted.

Mr. President, I wonder whether it would be in order to have a brief quorum call in order to make sure. There is no objection to the modification. We just want to be sure.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. HART. Reserving the right to object, and continuing to reserve it, I suggest the absence of a quorum.

Mr. PROXMIRE. Mr. President, will the Senator withhold his request for 1 minute, so that I may introduce a bill?

Mr. HART. I withhold the request.

Mr. PROXMIRE. I yield myself 1 minute.

## S. 3122—INTRODUCTION OF BILL TO INSURE TIGHTER CONTROL OVER GOVERNMENT PRODUCTION EQUIPMENT IN THE HANDS OF PRIVATE CONTRACTORS

Mr. PROXMIRE. Mr. President, as chairman of the Joint Economic Committee's Subcommittee on Economy in Government, I have held a series of hearings over the past year on Federal procurement practices. One of the most startling aspects of these hearings concerned the use of federally owned facilities, production equipment, materials, tooling and test equipment in the hands of private contractors, particularly defense contractors. The value of such property now in private hands totals almost $15 billion. The committee learned during the hearings that controls over the use of this property have been unaccountably and distressingly lax.

In January, I dramatized the improper utilization of this Federal property by releasing the names of a number of corporations and universities that had either misused federally owned production equipment or failed to pay adequate rental on the equipment when it was used for commercial purposes. These organizations were not exceptions. They were the rule. In fact, out of 23 companies and campuses visited by the General Accounting Office on a spot check basis, only one company, Holley Carburetor of Warren, Mich., had a clean slate.

As a result of meetings with the Defense Department and the General Accounting Office on the situation which presently prevails in the production equipment program—that is, the ownership by private contractors of Government equipment— I am today introducing a bill that would tighten controls over the use of federally owned property. The proposal limits itself to production equipment rather than attempting to cover materials, special tooling, test equipment, and facilities. Production equipment is particularly subject to the abuses uncovered by GAO. Different approaches are needed to counter the types of problems faced in the other programs.

My measure would provide for more effective control over production equipment in three ways:

First, it would prohibit the use of publicly owned production equipment by defense contractors unless (a) the production equipment were to be set aside for emergencies as part of a duly authorized mobilization plan; (b) the defense contractor was a small business and so recognized by the Small Business Administration; (c) the head of the appropriate agency made a determination in writing that the contractor's needs are urgent and cannot be met in any other way or that it is in the public interest to provide such equipment.

Second, my proposal would require the promulgation of regulations to control the use of federally owned equipment in private hands by providing for a uniform rental system, the maintenance by the contractor of adequate inventory records, and the prompt return of production equipment to the Government when it is no longer needed.

Third, my measure would permit the Federal Government to sell production equipment, special tooling and special test equipment at not less than a fair and reasonable price to a contractor already holding the equipment on a negotiated basis. Heretofore, sales of this equipment have perforce been on a competitive bid basis. The taxpayer has been the loser because the competitive bid system often results in one very low bid from the corporation holding the equipment—the only bidder who is in a position to know the condition of the equipment and to utilize the equipment without incurring costly moving expenses. For these reasons, the system is anything but competitive and the single bid usually received is far below fair value. My bill should result in a far better return to the Federal Government.

It is quite obvious that this bill is not a cure-all. For one thing, the bill gives the executive branch a good deal of freedom to dispose of federally owned equipment by negotiated sale and to place such equipment in private hands if it is in the public interest. This means that there will continue to be extreme pressures on the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, all covered by this legislation, to sell federally owned equipment at less than fair market value and to make unjustifiable exceptions to the general prohibition against the use of federally owned equipment in private plants. However, my bill will put Congress on notice of any misuse of this discretionary authority by providing Congress with an annual report of all negotiated sales involving property having a value of over $1,000 and all decisions to place property having an acquisition cost in excess of $10,000 in the hands of private contractors because of urgent need or an overriding public interest.

The bill's limited scope also takes it out of the cure-all category. It covers only production equipment, as I stated earlier, and this equipment accounts for only $2.5 billion of the $15 billion in Federal plant and equipment outstanding. I intend to carefully consider the wisdom and feasibility of introducing additional legislation to cover federally owned facilities, materials, special tooling, and special test equipment in the months ahead. Meanwhile, this measure, which covers a far from insignificant $2.5 billion, can serve as a guide for future proposals, as we follow its progress through the Congress and its ultimate application by the defense agencies.

I am happy to say that the General Accounting Office, whose investigations in this area were instrumental in the unfolding of the problem at Joint Economic Committee hearings—hearings that, in effect, were the genesis of this proposal—is in substantial agreement with the objectives of the proposed legislation. I have been informed by Defense Department officials that the objectives sought in this bill are compatible with their actions and plans and that the additional statutory authority contained in the bill is needed to support a policy of selling equipment when Government ownership is not essential. Incidentally, my discussions with Department officials make it clear to me that actions are now underway and planned by the Department to improve management control over government-owned production equipment furnished to contractors. I sincerely hope that the statutory controls provided in my proposal will make the Department's job easier by making it crystal-clear that Congress wholeheartedly supports a more aggressive approach to this problem.

I ask unanimous consent that the bill I am introducing today be printed in the RECORD at this point, and I ask that the bill be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3122) to amend chapter 137, title 10, United States Code, to limit, and to provide more effective control over, the use of Government production equipment by private contractors under contracts entered into by the Department of Defense and certain other agencies, and for other purposes, introduced by Mr. PROXMIRE, was received, read twice by its title, referred to the Committee on Armed Services, and ordered to be printed in the RECORD, as follows:

S. 3122

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That chapter 137, title 10, United States Code, is amended by—

(1) inserting, at the end of the chapter analysis thereof, the following new item:

"2315. Government production equipment";

and

(2) adding at the end of that chapter the following new section:

"§ 23.15. Government production equipment.

"(a) It is the policy of Congress that maximum reliance will be placed on the use of privately owned production equipment in connection with the performance of purchases and contracts made under this chapter. No agency named in section 2303 may hereafter acquire production equipment for the purpose of furnishing it to a contractor by lease or contract, for use other than in a Government-owned contractor-operated plant or by a nonprofit organization, unless the furnishing thereof is necessary—

"(1) to meet mobilization requirements under a duly authorized mobilization plan;

"(2) to permit the obtaining of supplies or services by such agency from a contractor which has been determined by the Administrator of the Small Business Administration to be a small business organization which is unable to procure such production equipment through the use of its own resources, and no alternate means of obtaining the needed supplies or services is practical; or

"(3) to meet an urgent need for supplies or services which the head of the agency has determined cannot be met by any other practical means, or in the public interest as determined by the head of the agency.

Determinations under paragraph (3) of this subsection shall be made in writing. The power to make such determinations shall be delegable only in accordance with regulations promulgated under subsection (b).

"(b) The Secretary of Defense for the Department of Defense, the Administrator of the National Aeronautics and Space Agency for that agency, and the Secretary of Transportation for the Coast Guard shall promulgate regulations for the effective control of all production equipment which is the property of each such agency and which is or hereafter may be furnished by such agency by any means to a contractor. Such regulations shall include—

"(1) a uniform system for the determination of the amount of the rental which shall be paid by such contractor for the use of any such production equipment for commercial use;

"(2) a requirement for the maintenance by such contractor of inventory records concerning all production equipment so furnished to it, and records and reports with respect to the nature and the extent of the use of such equipment, such records to be maintained and reports made as prescribed by the regulations; and

"(3) such other requirements as may be determined necessary for (A) the effective maintenance and control over all such production equipment so furnished by any agency named in section 2303 during the time which such production equipment is in the custody of any such contractor, and (B) subject to the provisions of subsection (c) of this section, the prompt return of such production equipment to the custody of such agency when there is no need therefor by such contractor for the furnishing of property or services to any department or agency of the United States. Such returned equipment if no longer required to meet the mobilization or other needs of the United States shall be promptly disposed of under other law.

"(c)(1) Under such regulations as may be prescribed by the Administrator of General Services, the Secretary of a military department or the head of a Defense agency, or of any other agency named in section 2303, may sell to a contractor items of production equipment and special tooling and special test equipment which are owned by the United States and under the control of that department or agency and which are located at the facility of the contractor.

"(2) Sales under this section shall be made at not less than a fair and reasonable price and, in the case of equipment used or planned for use in the development or production of supplies for, or the furnishing of services to, the United States, upon such terms as to assure that for a reasonable period after the sale the property or its replacement will be available, on a priority basis, for the performance of contracts of the United States or subcontracts thereunder.

"(3) Proceeds of a sale under this section may be used to pay the cost or expenses incurred in connection with that sale or to reimburse the appropriation or fund from which that sale cost was paid. Proceeds of such a sale that are not so used shall be covered into the Treasury as miscellaneous receipts.

"(4) An explanatory statement of the circumstances of each sale under this section of property having a fair and reasonable value in excess of $1,000 shall be prepared and a copy thereof preserved in the files of the department or agency making the sale.

"(d) The head of each agency named in section 2303 shall transmit to the Congress annually a report of each determination made under subsection (a)(3) involving an acquisition cost of $10,000 or more and

of each sale made for more than $1,000 under subsection (c) during the preceding year.

"(e) As used in this section—

"(1) 'Production equipment' means any tool, machine, or similar equipment, used or designed for use in the manufacture, production, or furnishing of property or supplies, but does not include special tooling or special test equipment.

"(2) 'Special tooling' means all jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, and replacements thereof, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the development or production of particular supplies or parts thereof, or the performance of particular services.

"(3) 'Special test equipment' means electrical, electronic, hydraulic, pneumatic, mechanical or other items or assemblies of equipment, which are of such a specialized nature that, without modification or alteration, the use of such items (if they are to be used separately) or assemblies is limited to testing in the development or production of particular supplies or parts thereof, or in the performance of particular services.

"(4) 'Nonprofit organization' means any corporation, foundation trust, or institution operated for scientific, educational, or medical purposes, not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual."

SEC. 2. The amendments made by this Act shall take effect on the first day of the fourth month beginning after the date of enactment of this Act.

## INTERFERENCE WITH CIVIL RIGHTS

The Senate resumed the consideration of the bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, I renew my request for a quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL COSPONSOR OF CONCURRENT RESOLUTION

Mr. PROXMIRE. Mr. President, I ask unanimous consent that at its next printing, the name of the junior Senator from Connecticut [Mr. RIBICOFF] be added as a sponsor of the concurrent resolution (S. Con. Res. 53) to express the sense of the Congress that the Secretary General of the United Nations should deliver an annual message on the state of mankind.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTERFERENCE WITH CIVIL RIGHTS

The Senate resumed the consideration of the bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, in view of the fact that an amendment offered by the distinguished Senator from West Virginia [Mr. BYRD] has been adopted, which curtails to some extent the authority of the court to allow attorney fees to the prevailing plaintiff, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 506

Mr. ERVIN. Mr. President, I call up my amendment No. 506.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

That chapter 13 of title 18 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 245. Depreciation of rights by violence

"(a) Whoever, whether or not acting under color of law, by force or threat of force sufficient to constitute an assault, willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with any other person because he is undertaking or has undertaken to exercise his right—

"(1) to vote or register to vote, or serve or qualify to serve as a candidate for public office, or serve or qualify to serve as a poll watcher, in any Federal election;

"(2) to serve or qualify to serve as a grand or petit juror in any court of the United States;

"(3) to participate in or enjoy any benefit, service, privilege, program, or activity provided by any facility owned, operated, or managed by or on behalf of the United States;

"(4) to participate in or enjoy any benefit of any program or activity receiving Federal assistance, other than by way of a contract of insurance or guaranty;

"(5) to move or travel in interstate commerce; or use any terminal or facility which serves interstate travelers as a part of, or in connection with, the operations of any carrier in interstate commerce;

"(6) to enjoy the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as entitlement thereto is conferred by title II of the Civil Rights Act of 1964;

"(7) to enjoy any equal employment opportunity conferred by title VII of the Civil Rights Act of 1964;

"(8) to make any complaint, or institute any civil action, authorized to be made or instituted under any law of the United States, or inform on any violation of any law of the United States;

"(9) to pursue his employment by any department or agency of the United States or by any private employer engaged in interstate commerce or any activity affecting interstate commerce, or to travel to or from the place of his employment or any other place for such purpose;

"(10) to advocate, encourage, or support the right of any other person or class of persons of the United States to exercise or enjoy any right described in clauses (1) through (9) of this subsection;

shall be fined not more than $1,000 or imprisoned for not more than one year, or both, and if personal injury results shall be fined not more than $10,000 or imprisoned for not more than ten years, or both; and if death results shall be imprisoned for any term of years or for life.

"(b) Whoever, whether or not acting under color of law, by force or threat of force sufficient to constitute an assault, willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with any other person while he is in the custody of any United States marshal or other law enforcement officer of the United States shall be fined not more than $1,000 or imprisoned for not more than one year, or both, and if personal injury results shall be fined not more than $10,000 or imprisoned for not more than ten years, or both; and if death results shall be imprisoned for any term of years or for life.

"(c) As used in this section—

"(1) the term 'Federal election' means any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives;

"(2) the term 'interstate commerce' means travel or transportation between any State, Commonwealth, or possession of the United States, or the District of Columbia, and any place outside thereof; or between points within the same State, Commonwealth, or possession of the United States, or the District of Columbia, but through any place outside thereof; or within the District of Columbia or any possession of the United States; and

"(3) the term 'place of public accommodation' shall have the same meaning as prescribed in section 201(b) of the Civil Rights Act of 1964.

"(d) The provisions of this section shall not apply to acts or omissions on the part of law enforcement officers, members of the National Guard, as defined in section 101(9) of title 10, United States Code, members of the organized militia of any State or the District of Columbia, not covered by such section 101(9), or members of the Armed Forces of the United States, who are engaged in suppressing a riot or civil disturbance or restoring law and order during a riot or civil disturbance.

"(e) Nothing in this section shall be construed as indicating an intent on the part of the Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of the enactment of this section."

SEC. 2. The analysis of chapter 13 of title 18 of the United States Code is amended by adding at the end thereof the following:

"245. Deprivation of rights by violence."

SEC. 3. (a) Section 241 of title 18, United States Code, is amended by striking out the final paragraph thereof and substituting the following:

"They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any terms of years or for life."

(b) Section 242 of title 18, United States Code, is amended by striking out the period at the end thereof and adding the following: "; and if death results shall be subject to imprisonment for any term of years or for life."

Mr. ERVIN. Mr. President, this amendment, in effect, is a substitute for the entire Dirksen substitute.

In connection with title I, my amendment would deal with the matters therein on the basis of the crime committed, and eliminate all questions of race or national origin.

My amendment would strike out the proposed open occupancy provision in its entirety.

It is an amendment which is in absolute harmony with the principle that all laws should apply to all men in like circumstances, exactly alike. It is an amendment which strikes out the proposed open occupancy provision. It provides, in effect, that Americans shall still have the right to determine for themselves to whom they sell or rent their privately owned property, which is the right Americans have enjoyed under the Federal law since George Washington took his first oath of office as President, and it is a right Americans will continue to have under Federal law as long as Members of Congress still entertain in their hearts a love for liberty.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. ERVIN. I am happy to yield on the Senator's time. My time is getting somewhat short.

Mr. TYDINGS. Will the Senator explain the difference between this amendment and amendment 505, which the Senate voted 54 to 29 to table earlier this week?

Mr. ERVIN. Yes. This amendment goes further than the one which was tabled, and provides for amendment of existing civil rights laws. Otherwise, it is identical.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is.

The yeas and nays were ordered.

Mr. HART. Mr. President, the Senator from North Carolina has explained clearly and accurately what is involved in this amendment. It would have the effect, as we view it, of nullifying much of what we have done. It is the strong opinion of the Senator from North Carolina that that is precisely what we should do. There is a majority here which has indicated with equal conviction that we should not do so.

On the vote here, unlike the vote on the tabling motion, there is the clear option to say yes or no, that we shall or shall not make clear worker protection provisions and open housing provisions.

I hope the amendment is defeated.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment offered by the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana [Mr. HARTKE], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from Rhode Island [Mr. PASTORE]. If present and voting, the Senator from Florida would vote "yea" and the Senator from Rhode Island would vote "nay."

I further announce that, if present and voting, the Senator from Minnesota [Mr. MCCARTHY] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Illinois [Mr. PERCY], and the Senator from Kentucky [Mr. MORTON] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

If present and voting, the Senator from Tennessee [Mr. BAKER] and the Senator from Illinois [Mr. PERCY] would vote "nay."

The result was announced—yeas 24, nays 64, as follows:

[No. 43 Leg.]

YEAS—24

| | | |
|---|---|---|
| Bennett | Hayden | Russell |
| Byrd, Va. | Hickenlooper | Sparkman |
| Byrd, W. Va. | Hill | Spong |
| Eastland | Holland | Stennis |
| Ellender | Hollings | Talmadge |
| Ervin | Jordan, N.C. | Thurmond |
| Fannin | Long, La. | Tower |
| Fulbright | McClellan | Williams, Del. |

NAYS—64

| | | |
|---|---|---|
| Aiken | Griffin | Monroney |
| Allott | Gruening | Montoya |
| Anderson | Hansen | Morse |
| Bartlett | Hart | Moss |
| Bayh | Hatfield | Mundt |
| Bible | Hruska | Murphy |
| Boggs | Inouye | Muskie |
| Brewster | Jackson | Nelson |
| Brooke | Javits | Pearson |
| Burdick | Jordan, Idaho | Pell |
| Cannon | Kennedy, Mass. | Prouty |
| Carlson | Kennedy, N.Y. | Proxmire |
| Case | Kuchel | Randolph |
| Church | Lausche | Ribicoff |
| Clark | Long, Mo. | Scott |
| Cooper | Magnuson | Smith |
| Cotton | Mansfield | Symington |
| Curtis | McGee | Tydings |
| Dodd | McGovern | Williams, N.J. |
| Dominick | Metcalf | Young, N. Dak. |
| Fong | Miller | |
| Gore | Mondale | |

NOT VOTING—12

| | | |
|---|---|---|
| Baker | McCarthy | Percy |
| Dirksen | McIntyre | Smathers |
| Harris | Morton | Yarborough |
| Hartke | Pastore | Young, Ohio |

So Mr. ERVIN's amendment (No. 506) was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 599

Mr. MILLER. Mr. President, I call up my amendments No. 599, star print, and ask that they be read.

The PRESIDING OFFICER. Does the Senator want the amendments read or merely printed in the RECORD?

Mr. MILLER. Read, or whatever is proper.

The legislative clerk proceeded to read the amendments.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendments No. 599 are as follows:

On page 8, line 4, strike "(a)" and "subsection"; and on line 5, strike "(b) and".

Strike all on page 9 after line 4, all of page 10, and lines 1 and 2 on page 11 and insert in lieu thereof the following:

"(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings where the prospective buyer or renter is a member or honorably discharged member of the Armed Forces of the United States, or surviving widow or surviving parent, or judicially determined dependent of a member of the Armed Forces.

"The Congress finds that it is necessary and proper to the health and welfare of the Armed Forces of the United States that discrimination by reason of race, color, religion, or national origin be prohibited in the sale or rental of housing as hereinabove provided.

"(3) Except as provided in subsection (2) above, the prohibitions against discrimination in the sale or rental of housing set forth in subsections 204 (a), (b), (d), and (e) shall not apply in the case of any single-family house sold or rented by an owner: *Provided*, That such private individual owner does not own more than three such single-family houses at any one time: *Provided further*, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four-month period: *Provided further*, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. Nor, except as provided in subsection (2) above, shall such prohibitions apply in the case of the sale or rental by an owner of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other: *Provided*, That in the case of dwellings covered by subsection (1) the owner occupies one of such living quarters as his residence. Nor, except as provided in subsection (2) above, shall such prohibitions apply in the case of the sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by more than four families living independently of each other when said dwelling is not required to be authorized to operate under a State or local law: *Provided*, That this exception shall not apply in the case of dwellings covered by subsection (1).

On page 11, line 5, strike "section 203(b) and" and insert in lieu thereof the word "section".

On page 12, add the following after line 7:

"(e) After December 31, 1968, in the case of all dwellings other than those made applicable by section 203(1), except as exempted by section 207, it shall be unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement affecting interstate commerce with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference limitation, or discrimination."

On page 12, strike all after the word "given" on line 25 and on page 13 all of lines 1 and 2 and insert in lieu thereof a period (.).

On page 13, strike lines 5 through 12 and insert in lieu thereof the following:

"SEC. 206. Upon the date of enactment of this Act with respect to all dwellings described in section 203, and after December 31, 1968, with respect to all other dwellings, it shall be unlawful—

"(a) for any person licensed as a real estate broker or salesman, attorney, or auctioneer, or any agent or representative by power of attorney, or any person acting under court order, deed of trust, or will—

"(1) to refuse to sell or rent, negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin;

"(2) to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin;

"(3) to make, print, or publish, or cause to be made, printed, or published any oral or written notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination; or

"(4) to represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

"(b) to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.

"(c) to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin.

The PRESIDING OFFICER. How much time does the Senator from Iowa yield himself?

Mr. MILLER. I yield myself such time as I may require.

Mr. President, I ask unanimous consent to have some technical changes made in my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MILLER. Mr. President, I had better read these changes, so that if any Senator does not think they are technical, he may have an opportunity to object. They are as follows:

To modify my amendment on line 9 of page 1, by adding after the word "parent" the phrase "of such member".

On page 3, line 17, change the "(e)" to read "(f)".

On page 4, line 9, to add "(1)" after "203".

On page 4, to strike lines 3, 4, and 5 in my amendment and insert in lieu thereof the following:

On page 13, line 2, change the word "exception" to read "exceptions" and change "203(b)" to read "(203)(1)".

Mr. TYDINGS. Mr. President, reserving the right to object, listening as the Senator read, I assume all the amendments are technical. Is that correct?

Mr. MILLER. Yes; they are.

Mr. TYDINGS. We have no objection.

The PRESIDING OFFICER. The modification is agreed to.

Mr. JAVITS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. The modification is not agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, the sponsor is given the right to modify.

Mr. MILLER. Mr. President, on the desk of each of my colleagues is an explanation of what the amendment is all about.

I know that a few Senators heard a previous explanation, which related to the same amendment as filed a few days ago. Yesterday I obtained unanimous consent to have the amendment reprinted as a star print, with one substantial modification and several technical changes.

I invite the attention of Senators to the first part of the amendment which would represent a substantial change in the coverage under the so-called Dirksen substitute. That change is set forth starting with line 5 on page 1 of my amendment, and points out that after December 31 of this year, discrimination would be prohibited in the case of all types of housing—single or multiple family, owner-occupied or other, federally financed and insured or privately financed and insured—there is complete coverage. This would occur, as I provide, "where the prospective buyer or renter is a member or honorably discharged former member of the Armed Forces of the United States, or surviving widow or surviving parent of such member, or a judicially determined dependent of a member of the Armed Forces."

Mr. President, the reason for this amendment is that I think we have a sound constitutional basis for making such a change. I have recited the basis in my explanation and have recited it in the amendment in the portion which reads as follows:

The Congress finds that it is necessary and proper to the health and welfare of the Armed Forces of the United States that discrimination by reason of race, color, religion, or national origin be prohibited in the sale or rental of housing as hereinabove provided.

Under article 1, section 8 of the Constitution, where the power to raise and support armies is given to Congress, Congress has the power—and we have exercised it on many occasions—to legislate for the health and welfare of members or former members of the Armed Forces.

Mr. President, I know there are Senators who feel very strongly about the proposition that one's home is his castle; but there is one time above all when one's home is not his castle, and that is when the national security of our country is involved. The power to raise and support armies for the national security of our country is preeminent; and in connection with the health and welfare of the Armed Forces, the most important ingredient, the one that stands above everything, is the morale of the Armed Forces.

Mr. President, the morale of the Armed Forces cannot be as high as it should be as long as members of the Armed Forces—or any member of the Armed Forces—know that either while they are in the service or after they leave the service, no matter what kind of service they perform, no matter how many days they may have spent in a hospital, no matter what the extent of their permanent disability may be, when it comes to acquiring a dwelling, they can be discriminated against by reason of race, color, religion, or national origin.

I must say, Mr. President, that I believe our troop leaders have done a magnificent job in the war that is now at hand, in maintaining the morale of our Armed Forces as high as it is. We should make sure that nothing happens that will diminish that morale. My amendment would serve that end.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MILLER. I yield to the Senator from Massachusetts.

Mr. BROOKE. On this particular point, Mr. President, it seems unconscionable to me that Congress would say to Negro veterans and servicemen that because they are in the Armed Forces of the United States of America, and because they go to war and risk their lives, that they cannot be discriminated against; but that "if it were not for the fact, Mr. Negro American, that you are a member of the Armed Forces, or that you go to war to risk your life for this country, you can be discriminated against, or your brother or sister can be discriminated against because he or she is not a member of the Armed Forces of the United States of America."

Mr. President, I served in World War II. I am an American Negro. I am an American veteran. Under this amendment, I could not be discriminated against; but, Mr. President, I want no such special privilege, and I do not know of any Negro veteran in this country, who is worth his salt, who would appreciate having any special privilege which would bar discrimination against him, but would not bar discrimination against other American Negroes who may not have been able to serve in the Armed Forces of the United States.

Take the question of the man who may have had a heart problem, who could not serve in the Armed Forces. He can be discriminated against under this amendment; but a man who perhaps did have the physical ability to go into the Armed Forces of the United States is given the special privilege. I cannot believe that Congress wants to say this to the American Negro. I do not believe that Congress wants to say to him, "The only way you can avoid discrimination in this country is for you to go and risk your life in Vietnam," when, in God's name, he does not always have the ability, he does not always have the health, he does not always have the other things required of him to be a member of the U.S. Armed Forces.

Mr. President, I see that the Senator has tried to include others for exemp-

tions, but, Mr. President, the amendment is bad. It would create more problems in this country than it would solve. There is no basis in law or in morality which would distinguish discrimination against a veteran from discrimination against a nonveteran.

I should like, in all fairness to the Senator, to ask him if what I have said this morning is not true, insofar as his amendment is concerned.

Mr. MILLER. Mr. President, I would appreciate it if the Senator would indulge me the opportunity to explain my amendment fully. After that I shall be more than happy to answer any questions. I would expect to do so on the Senator's own time, when it comes to the time for questions.

Mr. BROOKE. Mr. President, may I——

The PRESIDING OFFICER. Does the Senator yield?

Mr. MILLER. No, I do not yield at this time.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. MILLER. The Senator from Massachusetts has raised a point on the matter of law. Mr. President, if the Senator will check with the attorneys from the Department of Justice, I am quite sure he will find that they agree with me that there is a legal, constitutional basis for singling out members of the Armed Forces for what I am seeking to do here. There is no question about the law.

Now, with respect to the morality side of the matter, if I did not think this was a moral amendment, I would not have offered it. If the Senator from Massachusetts does not think it is a moral amendment, it is his privilege to feel that way about it. But on this matter of discrimination, Mr. President, I know there are some people who would say, "Oh, you are discriminating in favor of veterans."

Mr. President, Congress has discriminated in favor of veterans throughout our history; and they should be discriminated in favor of. Billions of dollars are being spent under Veterans' Administration programs of this country, and properly so. Does the Senator from Massachusetts suggest that we scrap the Veterans' Administration, that we scrap all veterans' programs, or extend them, willy-nilly, to everybody else? I would hope not.

I repeat, veterans should be discriminated in favor of. Many potential veterans are being discriminated against today when, against their will, they are drafted into the service of their country.

Mr. BROOKE. Will the Senator yield?

Mr. MILLER. Please let me finish, and then I shall be happy to yield to the Senator from Massachusetts as long as he wishes.

Mr. President, there are many who are thus being discriminated against. Go down to the draft board and see the lists.

I understand very well that somebody might be ready, willing, and able to serve his country in the Armed Forces, but, because of physical disabilities, he cannot—the 4–F. The 4–F is not treated the same as a member of the Armed Forces under my amendment. But the 4–F is not reached in article I, section 8, of the Constitution. The 4–F might like to go to college under the GI bill. However, when we legislated the extension of the GI bill of rights, we did not say anything about the 4–F. We said, "It is just too bad. You did not make it. But those who did will receive these benefits." And properly so.

There is no question about the law contained in the amendment. There is room for differences, and honest differences, of opinion regarding the morality. However, there is ample precedent, from the morality standpoint, for Congress to legislate and discriminate in favor of those who have worn the uniform of their country.

I point out another thing that my amendment would do. Like the Dirksen substitute, my amendment absolutely covers brokers and agents. Actually, it goes a little beyond the Dirksen substitute in its coverage, because my amendment would cover brokers, salesmen, attorneys, auctioneers, and the like.

We can do this under the 14th amendment to the Constitution. These people are licensed to operate under State law. I am quite satisfied that we have the power to reach them.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. ERVIN. Mr. President, do I understand the Senator from Iowa to say that his amendment would preclude an attorney from carrying out the instructions received from his client?

Mr. MILLER. I will say that an attorney could not discriminate in behalf of an owner. This coverage is absolute.

I am glad the Senator asked that question, because I can understand how easily one could be confused over that point. An attorney who is selling a home is in the same relationship from the standpoint of my amendment as is a real estate agent or a salesman.

I point out that this coverage was extended to attorneys in this type of situation in the case of my own State of Iowa under a statute that was enacted into law last year.

With regard to the owners themselves, there are two ways of analyzing this housing problem. The first is to look at governmentally financed or insured dwellings. With respect to the four categories under section 203(a) of the Dirksen substitute—governmentally financed homes—my amendment would prohibit discrimination in any advertising.

With respect to single-family dwellings sold or rented by an owner, my amendment would permit discrimination in line with the amendment offered by the Senator from West Virginia [Mr. BYRD] and agreed to by the Senate on yesterday.

With respect to rooms or units in dwellings containing living quarters occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence, discrimination would not, just as provided in the Dirksen substitute, be prohibited under my amendment. However, in cases of larger than a four-family dwelling unit, discrimination is prohibited.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. BYRD of West Virginia. Mr. President, do I correctly understand that the amendment of the Senator from Iowa would not disturb the provisions of the amendment offered by the junior Senator from West Virginia yesterday, an amendment which the Senate agreed to?

Mr. MILLER. The Senator is correct. Yesterday I secured unanimous consent to modify my amendment if the Byrd amendment was agreed to. And since the Byrd amendment was agreed to, my amendment has been so modified.

Actually, so far, there is very little difference between my amendment and the Dirksen substitute with the Baker amendment in it.

The next category is nongovernmentally financed or insured dwellings. With respect to these, my amendment would prohibit the owner from discrimination in advertising affecting interstate commerce.

This is a more limited advertising prohibition than the previous one. As long as the Federal Government has a string on dwellings through financing or insurance, the Federal Government has the power to say, "You won't discriminate in any advertising." However, where there is no Federal string, where the owner has financed his own dwelling, then the reach of the Federal Government should be under the commerce clause. And that is why my amendment prohibits discrimination in advertising affecting interstate commerce.

With respect to single-family dwellings sold or rented by an owner, we have the same coverage as the Byrd amendment which was agreed to by the Senate on yesterday.

With respect to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, there is no prohibition against discrimination.

I know that some people feel very strongly about this. They feel that there should not be any discrimination in any housing. However, I say to those people that where the Government has not entered the picture at all, where the owner has acquired his own four-family dwelling, I do not know where the Federal Government has the constitutional power to exercise control unless we want to make a shambles of the Constitution to reach that point. As a matter of fact, the four-unit dwelling is exempt under the Dirksen proposal anyhow.

With respect to over four-family multiple dwellings, my amendment would do two things. These are in the privately financed areas. When, under a State or local law, that dwelling is operated under some special law or ordinance as a multiple-unit dwelling, then I believe it comes under the 14th amendment powers of Congress under the Constitution. And my amendment would prevent discrimination. However, in other over four-family multiple dwellings, where there is no requirement that such multiple dwelling operate under a State or local law, then discrimination would not be prohibited.

Mr. President, finally, the exemption

under section 207 covering religious organizations, and so forth, which is contained in the Dirksen substitute, is preserved in my amendment. However, I think every one generally agrees upon this exemption.

That, in brief, is an explanation of my amendment.

I repeat that my problem with the Dirksen substitute and the reason why I have spent so many hours trying to come up with a good, workable solution is because the Dirksen substitute offends my constitutional sensibilities. I cannot support a bill which I believe rests on unsound ground. No matter what the morality of the problem may be, if we do not have the constitutional power then we ought to change the Constitution.

There were many Senators who felt very strongly that it was immoral for poll taxes to be used in Federal elections. We did not pass a law on the subject. We passed a constitutional amendment. The reason we had to do so was that most Senators would not stand for such a statute, because we did not have the constitutional power to legislate such a statute.

Mr. President, we clearly have the constitutional power, under the 14th amendment, to say to the owner of a multiple-unit dwelling that is required to operate according to a State statute, or required to operate according to a local ordinance, "Thou shalt not discriminate." The 14th amendment gives us that power. We have the power to say to an individual, "You will not discriminate in advertising affecting interstate commerce." And, certainly, when the Federal Government is financing or insuring property, we have the power to say, "You will take our financing and our insurance with the string of 'no discrimination' attached to it."

With respect to the coverage of the veterans, Mr. President, this reaches a great many people. I am advised by the Veterans' Administration that there are 26 million veterans. 8.3 million parents of veterans, and 23 million wives and widows of veterans. My amendment provides that, as to this group, there shall be no discrimination with respect to any housing, federally financed or otherwise, any time, any place, anywhere.

I suggest, Mr. President, that this approach would have great public acceptance. All of us have good friends who feel very strongly about their personal home. Their home is their castle. But you can say to many of them, "Your home is your castle, up to a point. When the national security of your country is involved, when it comes to discriminating against a member or honorably discharged member of the Armed Forces or his surviving widow or parent there must be no discrimination. You can discriminate any other way you want to—credit rating, any other way you want—but not on the basis of race, religion, color, or national origin."

Mr. President, I will be happy to yield to my colleague, the Senator from Massachusetts, on his time, and to answer questions of any other Senator.

Mr. BROOKE. I thank the distinguished Senator.

Mr. President, as I read the proposed amendment, it would apply to a situation in which the prospective buyer or the renter is a member or honorably discharged member of the Armed Forces of the United States, or surviving widow or surviving parent of such member.

Now, I ask this question: What is the soldier in Vietnam, who is risking his life, going to think when he feels that, under this amendment or under the proposed law, unless he is killed or dies, his parent is not protected against discrimination, or his wife is not protected against discrimination because she is not a surviving widow, or his parents are not surviving parents? Then, if he has parents, they have to go to court to get judicial determination, because it reads: "or a judicially determined dependent of a member of the Armed Forces." They must go to court to get a judicial determination as to whether they are dependent upon that soldier in Vietnam.

There are many soldiers whose parents, fortunately, are not dependent upon them. Those parents would not be covered by this amendment. It certainly seems unconscionable to me to say to that soldier in Vietnam that the only way he can cover his wife or his mother or his father is for him to give up his life. It is even worse than the first situation I suggested. But I believe that the first one is bad enough.

The Senator has not yet said that what I asked or pointed out to him under his amendment is not true. The fact is that it would be saying to an American Negro, "The only way you cannot be discriminated against is to join the Armed Forces and go off to Vietnam to risk your life." I do not believe there is any basis in law—certainly, no basis in morality—which would justify Congress saying that. I repeat that no Negro veteran worth his salt would ever want this special privilege given to him and denied to the other members of his race.

The Senator has not answered that question.

Mr. MILLER. Mr. President, I believe that if a member of the Armed Forces heard such an explanation as the Senator from Massachusetts has just offered, and did not have an opportunity to hear my explanation, he might conclude as the Senator from Massachusetts has suggested. But I must say to the Senator from Massachusetts—and I am happy that we have an opportunity to make a little legislative history at this time—that he completely misreads the amendment to arrive at the conclusion he suggests.

He asks the question. How would the veteran or how would the member of the Armed Forces feel if he thought that the only way he could avoid discrimination is to join the Armed Forces? That question is completely unresponsive to the provisions of the amendment. The facts of legal life are that he does not have to be discriminated against, and he should not be discriminated against, so far as the Congress of the United States is concerned, where we have the power under the Constitution to prevent it. And my amendment would do so in the case of many dwellings whether one is a veteran or not. We have the power under the 14th amendment, and we have the power under the commerce clause, to do so.

With respect to the gaps in our constitutional power, I am sure the Senator from Massachusetts and I could agree that State and local law should cover them. As a matter of fact, it is unfortunate that State and local laws have not already covered the situation so that we would not have to legislate. But if we are going to legislate, if we are going to respect the Constitution, we must stay within the Constitution.

Under my amendment, one need not join the Armed Forces to avoid discrimination. All one need do is come within the 14th amendment of the Constitution or within the commerce clause, and discrimination will be avoided in millions of units.

As I understand the Dirksen amendment, there are exemptions for millions of units. That does not mean that the Senator from Massachusetts likes it. It does not mean that I like it. But I believe there is a constitutional matter that we should respect in this situation. I say this with all deference, knowing that some Senators believe that the Constitution covers everything under the sun. But if the Constitution is going to mean anything, Mr. President, we will have to legislate within its framework undiluted by extreme stretching of the meaning of its provisions.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. BROOKE. I ask the Senator what portion of the Constitution he relies upon to give this protection to members of the Armed Forces.

Mr. MILLER. Well, I thought I already had made that clear in my first comments in response to the Senator from Massachusetts, by referring him to the attorneys for the Department of Justice if he has any question about the constitutional power for Congress to legislate in this fashion. I am well satisfied, and I believe, if he will check with them, he will agree with them. I do not always agree with the Department of Justice lawyers, either. But I am quite confident that we have the power to so legislate, and properly so, because the national security of our country is preeminent.

However, if the Senator does not believe we can discriminate in favor of veterans, I would say that we are going to have an awful job finding employment for the thousands of Veterans' Administration employees; and a great many veterans may feel rather strongly that they should have discriminatory privileges under the various VA programs, and I personally believe that they are entitled to them.

Mr. BROOKE. Mr. President, I suggest that the Senator's answer is not responsive to the question.

I am still waiting to learn from the Senator that provision in the Constitution which gives us the power to protect the veterans against discrimination.

Mr. MILLER. Mr. President, the Senator is going to have to accept the authority I have cited, or read the cases. If he has any doubts, let him talk to the Department of Justice. I tried, in the best way that I can, to answer the question;

and if the Senator does not think it is responsive, I regret it.

The Senator did not interpret my amendment accurately when he said, in effect, "What about the wives of the boys in Vietnam?"

I wish to answer that question. I think that if we had a problem in that connection, the wife would very well represent the serviceman in the purchase of a home. Most wives do not have the wherewithal to buy a home, anyway. Title to the property is usually taken in the name of the husband or the husband and the wife, and in that sense I think that as long as the buyer is the serviceman in Vietnam or the buyer is the serviceman and his wife, there could not be discrimination.

Mr. BROOKE. As I understand the Senator, his authority is the Department of Justice, and I do not believe——

Mr. MILLER. No; I did not say that. I said the authority is the Constitution.

Mr. BROOKE. I asked for the provision of the Constitution and the Senator said the Department of Justice.

Mr. MILLER. No; the Senator said article 1, section 8, of the Constitution of the United States.

Mr. BROOKE. That is the authority?

Mr. MILLER. That is correct.

Mr. BROOKE. And I take it that the Senator claims that that gives Congress the right to act on the basis of national security. Is that correct?

Mr. MILLER. Correct.

Mr. BROOKE. Then, Mr. President, it would seem that what we are saying now to the Negro soldier is even a worse situation than I had suggested before. We are now saying to him: "We are not so much concerned with having you protected against discrimination because you are serving in the Armed Forces, but we want to keep your morale up so that you can be a better soldier, and our interest really is in national security and the morale of the soldiers, so we are going to protect you against discrimination."

Is that what we are saying here?

Mr. MILLER. Mr. President, do I understand this time is running against the Senator from Massachusetts in his questions?

The PRESIDING OFFICER. No. On the Senator from Iowa.

Mr. MILLER. I had made clear that I would be pleased to yield on the Senator's time, and I thought that was understood.

Mr. BROOKE. Mr. President, I wish to take no advantage of my colleague. All of the time I have used in what I have said to my colleague will be credited to my time.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. MILLER. I thank the Senator from Massachusetts.

Mr. President, I think the Senator is confusing morality with legality. I shall be glad to talk about morality and I shall be glad to talk about legality.

Let us talk about legality. The legality, as I understand it, concerns where we have the power to so legislate. I have done the best I can to indicate to the Senator that under article I, section 8, of the Constitution, the Congress has the power to so legislate. We have legislated in favor of veterans and discriminated—if one wishes to use the word—against nonveterans, from time immemorial. I do not think there is any question with respect to legality.

I mentioned the Department of Justice only because I thought the Senator might wish to check the matter with them. He does not have to agree with them any more than I do. I thought that suggestion might appeal to him, or he can read the cases himself.

When I talk about the national security interest I am not talking about morality. I am talking about the constitutional power of the Congress to legislate for the national security interest. National security has nothing to do with the morality of this problem.

The morality of this problem is whether or not one should be discriminated against because of his race, color, religion, or national origin. I do not believe there will be many, if any, Members of the Senate who would get into an argument over the morality. But that is not going to get us anywhere in the Senate. What would get us somewhere in the Senate would be to legislate within our constitutional powers to legislate. If we feel strongly about the limitations of the Constitution from a moral standpoint—and we did with respect to the poll tax in Federal elections—then, we can amend the Constitution.

I hope this has been responsive to my colleague.

Mr. COTTON. Mr. President, would the Senator extend me the courtesy of yielding to me on my time?

The PRESIDING OFFICER. Does the Senator yield?

Mr. MILLER. I yield on those conditions.

Mr. COTTON. Mr. President. I have to leave the floor of the Senate in about 10 minutes to catch a plane and I will not be able to even vote on this amendment. I would like to yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. I thank the Senator.

Mr. President, it would seem to me, as much as I sympathize with the position of the distinguished Senator from Massachusetts, that his illustration does not even go far enough.

If this substitute discriminates and authorizes discrimination against anyone because of his race or national origin, then it is wrong. If anyone believes that, I do not see how he can vote for it.

The provision that would recognize the rights of the homeowner in this particular instance, in the mind of the Senator from New Hampshire, is not in any sense discriminatory. That right of a homeowner extends just as much to a Negro as it does to a white person, or to any race.

Mr. President, it is perfectly conceivable that the time might well come when Negro owners and occupiers who have acquired or built a home might wish the freedom, if they found it necessary or advisable to dispose of their property, to choose the purchaser; and the time might well come.

So it is not far-fetched that this right of a homeowner to be free to rent or dispose of his property as he sees fit is not discriminatory because it applies to all races.

If I thought it was discriminatory, I would not vote for it. As a matter of fact, let me say frankly, I think we could have drawn the line a little more closely.

I regret that the amendment of the distinguished Senator from West Virginia was adopted which extends it to dwellings other than a person's home. I think that an apartment house with four families is going fairly far. I would have applied it to duplex apartments. I feel strongly that those who take in boarders or roomers should be protected—as they are.

We in Congress have taken care of public accommodations in motels, hotels, and all who hold out those accommodations.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. COTTON. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 2 additional minutes.

Mr. COTTON. Mr. President, it does not strain my sensibilities to extend open housing to apartment houses, to real estate developments, and to single-dwelling units which are for rental. For that reason, I am glad to support the bill that provides for those privileges. But, I insist that this provision and this bill is not discriminatory. The amendment offered by my distinguished friend from Iowa [Mr. MILLER], in and of itself, admits and indicates that it is discriminatory and seeks to relieve a certain group; namely, the veteran or serviceman.

From what the amendment states, or again indicates is a discrimination, if it is a discrimination, should not apply to any Negro whether a veteran or not a veteran. It should be universal in its application. It has to be universal in its application to citizens and residents of all races. Therefore, Mr. President, if I were able to be here, I would be compelled to vote against the amendment of the Senator from Iowa not only for the very cogent reasons advanced by the Senator from Massachusetts, but the additional reason that to vote for such an amendment is an indication that we are consciously and intentionally discriminating.

Mr. President, I believe that the homeowner has a constitutional right to protection just as much as the prospective buyer or renter. So long as we stand on that ground, to me, even though others may not agree, it is sound ground.

Therefore, Mr. President, if I am unable to be here when the vote is taken on the amendment, I want to be announced as opposed to it for the reasons I have stated.

Mr. MILLER. Mr. President, although I regret the position taken by my good friend from New Hampshire, I appreciate the development of his argument because it lays the foundation for asking my colleague from Massachusetts the following: Unless I am misinformed, I understand that the Senator from Massachusetts agreed to support the Dirksen sub-

stitute. If that is so, the Dirksen substitute provides—and this is only one place where there is a similar kind of exemption—that in the case of single-family houses, the rental or the sale is subject to discrimination if the person does not use a broker. If he does not go through a broker, he can slam the door in anyone's face.

If the Senator from Massachusetts is going to support that, why would he not support an amendment which would say, "Well, you cannot slam the door in the face of a veteran, in the case of one of our boys who have served in Vietnam, for example"? But if we do not say that, if the Senate does not adopt my amendment, the Senator from Massachusetts will permit that to happen. I would regret this very much. I would think that the men serving in Vietnam would wonder about it. I would think that he would welcome the recognition that at least we are going to make some progress in this very sensitive area. I would hope that he would want us to make progress in line with the Constitution of the United States.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, the Senate has been considering the pending legislation for about 2 months now. The pending Dirksen substitute amendment provides, in part, for the freedom of choice in housing for all Americans. In my opinion, this proposal, as it has been amended by the Senate to date, represents a most valid approach in affording the necessary protection for all Americans. It is the result of an in-depth and detailed study by many Members of this body for many weeks.

As each Member knows, its constitutional base is founded in the commerce clause and the 14th amendment of the Constitution.

At this hour, the amendment offered by the distinguished Senator from Iowa [Mr. MILLER] would drastically change the whole approach and constitutional basis for providing this freedom of choice.

In doing so, it would miss the entire point and the real purpose of the legislation.

As I envision the bill, we are concerned with removing a barrier which presently exists in our society for some Americans to exercise the right to live where their means will permit.

The amendment of the Senator from Iowa [Mr. MILLER] would not meet that problem. It would, instead, substitute the requirement that to be free of this institutional barrier in our society, one must first serve in the Armed Forces, or have a son or husband die in the service of his country.

Mr. President, I do not believe that any man serving in Vietnam today should have to die in order that his mother or father should be afforded the coverage of this bill.

I am a veteran of the Armed Forces. I was a seaman in the Navy in the First World War, private in the Army, and private first class in the Marine Corps. I am a vigorous adherent of providing in every way for those who serve their country in this capacity. I think my record of 25 years in both Houses of Congress will prove that.

Every degree of assistance should be provided for Americans who were disabled as a result of service to their country. The best of medical facilities should be afforded to every American whose disability was caused in the service of his country. The fullest educational benefits should be granted every veteran who returns to civilian life.

Every veteran should be free, also, of every form of racial discrimination in the buying of a home.

But, so should the nonveteran. So should the person whose misfortune it was to be born with a physical handicap which prevents service in the Armed Forces.

What we are trying to do in this bill is to tell that same man whose physical handicap prevented his military service that we do not want the color of his skin to be a further handicap.

I think that the freedoms of those who were unable to serve are in no less need of protection, because they, too, are Americans. I think that they are no less entitled, and no more, than any other segment of our population. I would hope that they would all be treated alike.

Therefore, I urge rejection of the Miller amendment.

Mr. MILLER. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. MILLER. Do I understand, from the Senator's remarks, that he is alleging my amendment would require that in the case of over four-family dwellings one would have to be serving, or have served in the Armed Forces, in order to be free from discrimination?

Mr. MANSFIELD. The Senator is begging the question. The Senator refers to veterans' privileges. I will lay my record on the line on behalf of our veterans with his or anyone else's in either House or Senate. I do not yield any more. The Senator can make his speech on his own time.

Mr. MILLER. There is no question about that, but I must say to my good friend from Montana that he completely misunderstands my amendment when he says that it would require one to serve in the Armed Forces to be free of discrimination in housing under my amendment.

My amendment does no such thing. The Senator from Montana should read it, and he would know that it does not.

Mr. MANSFIELD. The Senator from Montana has read the amendment.

Mr. MILLER. My amendment has the same coverage as the Dirksen amendment, and I presume the Senator from Montana is going to support that. It has the same coverage in this respect regardless of whether one is in the Armed Forces or not, but I go a step further. I, in effect, modify that with the Baker amendment, and then I come in and say, "But the Baker amendment will be undercut if you are in the Armed Forces."

Mr. President, if there is going to be a vote on this proposal, let us have a vote on the merits, and not on the basis of a misleading statement on my amendment.

Mr. MONDALE. Mr. President——

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. MONDALE. I yield myself 2 minutes.

The Dirksen substitute, when fully operative, prohibits the owners of approximately 80 percent of housing in this country from discrimination, or approximately 52.6 million living units.

The Miller amendment prohibits the owners of 800,000 units, or 1 percent of the Nation's housing market, from discrimination. Thus, it thoroughly destroys the Dirksen substitute that we have been dealing with.

There are two different parts to the Miller amendment. The first reaches federally assisted housing, which today consists of approximately 3.8 million units, but from that it exempts single-family, owner-occupied units; two, single-family, most-recent-resident units; three, the Byrd amendment of yesterday; four, Mrs. Murphy; and, five, multi-units when not operating under State or local law.

Added to that are 8.3 million under Federal Executive order, and he exempts all but 800,000 of those units.

That is the only part of the Miller amendment, except for veterans, which affects the right of the owner to discriminate.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. MONDALE. As soon as I complete the description, I shall be glad to yield.

Second, the amendment of the Senator from Iowa prohibits discrimination against a veteran or his widow and some others related to that veteran. We estimate that there are approximately 2.4 million Negro veteran families or persons eligible to take advantage of the nondiscrimination offered by the veterans provision of the amendment of the Senator from Iowa; but I also estimate that there are 3.3 million Negro nonveterans who are draft rejectees. So there is a form of discrimination there—unintentional, but it is part of the Miller amendment. So it reaches only a modest 2 to 3 million in this country.

The Senator from Iowa says, "But I prohibit discrimination by brokers." That is an approach which I believe needs to be analyzed, because the possibilities for subtle discrimination, where the owner can discriminate but where the broker cannot discriminate, defy the imagination. They are virtually limitless. Thus, to say that the broker is prevented from discrimination, but the owner is not, proposes something that is not convincing.

Finally, I have said this repeatedly, and I think it is fundamental to this matter: I am offended by the notion that it is decent to advertise in the newspaper and to put a "for sale" sign in front of one's home, to have a broker go out, and through the multiple listing service and all the other techniques designed to get the public to come into the market, in order to have the greatest possible market and obtain the highest possible price, to lead the Negro husband, wife, and children, to think they have a chance to buy that home, and then let them

walk up to that home, go up to that "for sale" sign, be told, "No; you are a Negro." I know it is a curse. It is offensive.

I know the Senator from Iowa joins me in wishing to avoid discrimination in the way of rental housing, but there is no other way of characterizing the Miller amendment except to say it destroys the Dirksen amendment and substitutes in its place an alternative which I feel is completely unacceptable.

Mr. MILLER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MILLER. Mr. President, just as a matter of clarifying the record, will the Senator from Minnesota yield?

Mr. MONDALE. I no longer have the floor.

Mr. MILLER. I would like to make this comment on the Senator from Minnesota's statement. I may have misunderstood him, but I thought he said that in the case of federally assisted housing, my amendment would not reach the multiple dwelling. I invite his attention to my statement which is on the desks of all Senators. Item 1–d reads: "All other U.S. Government-financed or insured dwellings"—and that means all, other than single or under four unit multi-family dwellings. My amendment would prohibit discrimination as provided in section 204 with respect to 20 million units in such dwellings.

If there is any difference of opinion on this, I am sure the Senator from Minnesota could ascertain very readily by reading lines 11–13 on page 3 that my amendment does exactly what my explanation says it does.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. MILLER. Mr. President, because of the time factor, I yield the floor.

Mr. MONDALE. The trouble with the argument of the Senator from Iowa is that his amendment does not do what he says it does. The language to which he refers exempts such housing from an exemption, but it is never included in the first place. It is a nullity.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

Mr. MILLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. MILLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment (No. 599), as modified, of the Senator from Iowa. On this vote, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Rhode Island [Mr. PASTORE]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

I announce that the Senator from Indiana [Mr. HARTKE], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Kentucky [Mr. MORTON], the Senator from Nebraska [Mr. HRUSKA], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

If present and voting, the Senator from Illinois [Mr. PERCY] would vote "nay."

The result was announced—yeas 13, nays 73, as follows:

[No. 44 Leg.]

YEAS—13

| | | |
|---|---|---|
| Brooke | Hickenlooper | Scott |
| Eastland | Hill | Sparkman |
| Ellender | Holland | Stennis |
| Ervin | Jordan, N.C. | |
| Hayden | Miller | |

NAYS—73

| | | |
|---|---|---|
| Aiken | Griffin | Morse |
| Allott | Gruening | Moss |
| Anderson | Hansen | Mundt |
| Bartlett | Hart | Murphy |
| Bayh | Hatfield | Muskie |
| Bennett | Hollings | Nelson |
| Bible | Inouye | Pearson |
| Boggs | Jackson | Pell |
| Brewster | Javits | Prouty |
| Burdick | Jordan, Idaho | Proxmire |
| Byrd, Va. | Kennedy, Mass. | Randolph |
| Cannon | Kennedy, N.Y. | Ribicoff |
| Carlson | Kuchel | Russell |
| Case | Lausche | Smith |
| Church | Long, Mo. | Spong |
| Clark | Long, La. | Symington |
| Cooper | Magnuson | Talmadge |
| Cotton | Mansfield | Thurmond |
| Curtis | McClellan | Tower |
| Dodd | McGee | Tydings |
| Dominick | McGovern | Williams, N.J. |
| Fannin | Metcalf | Williams, Del. |
| Fong | Mondale | Young, N. Dak. |
| Fulbright | Monroney | |
| Gore | Montoya | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Byrd of West Virginia, for.

NOT VOTING—13

| | | |
|---|---|---|
| Baker | McCarthy | Smathers |
| Dirksen | McIntyre | Yarborough |
| Harris | Morton | Young, Ohio |
| Hartke | Pastore | |
| Hruska | Percy | |

So Mr. MILLER's amendment (No. 599) was rejected.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 593

Mr. MILLER. Mr. President, I call up my amendment No. 593, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, strike all after the period in line 6 and all of lines 7 through 12 and insert in lieu thereof the following: "No prosecution of any offense described in this section shall be undertaken by the United States except upon the formal authorization in writing of the Attorney General or Deputy Attorney General of the United States, which authorization shall not be given unless the appropriate State or local law enforcement official has failed to promptly, after the alleged offense has been brought to his attention, commenced proper proceedings in the matter, or, having done so, failed to carry forward such proceedings in good faith and with due diligence and reasonable promptness. In no event shall such authorization be given except upon the certification in writing of the Attorney General or the Deputy Attorney General that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice, which function of certification may not be delegated."

Mr. MILLER. Mr. President, the purpose of my amendment is to modify the language on page 2 in the Dirksen substitute insofar as the power of the Attorney General to bring suits under title I is concerned.

As the Dirksen substitute now reads:

No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General or the Deputy Attorney General that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice, which function of certification may not be delegated.

We hear a great deal of talk about States rights and States responsibilities correlative to those rights. However, the way the Dirksen substitute now provides the Attorney General, no matter who he may be, has the discretionary power to destroy State responsibility.

My amendment provides that the Attorney General will not give the authorization to proceed unless the appropriate State or local law-enforcement official has failed, after the alleged offense has been brought to his attention, to commence proper proceedings in the matter, or having done so, has failed to carry forward such proceedings in good faith, with due diligence and reasonable promptness. I suggest that this is a reasonable basis on which to let the States exercise their responsibilities.

If the Attorney General does not have good reasons for taking a case away from State or local officials, he would go into Federal district court at his peril. If he goes into Federal district court and the issue is raised that the State or local enforcement official was proceeding in good faith, with due diligence and reasonable promptness, the court would decide the question. If the Attorney General has good reasons for his belief and can so show, the court would keep jurisdiction.

Mr. President, I reserve the remainder of my time. I will be happy to answer any questions on this amendment.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

Mr. President, the Senator, himself, has stated the most fatal argument against his own amendment, and that is that the U.S. district court would have to find that a local district attorney had failed to carry forward such proceedings in good faith and with due diligence and reasonable promptness. For all practical purposes, with all the inter-

ference of States rights we are talking about, that would enable the U.S. district court to impeach the local district attorney. That is the fatal defect, in my judgment.

A second defect is that the amendment does not say anything about what happens with the proceeding. Suppose it is prosecuted with reasonable promptness but with no skill or in a prejudiced atmosphere—and this is the very thing which this bill is trying to reach—and the proceeding thereupon fails because of the social order in a given community.

We are trying to attain contemporaneous jurisdiction, but of a serious kind, so that the Attorney General, himself, must certify. Incidentally, this was the subject of a discussion with Senator DIRKSEN, and agreed upon with him, because he had some questions. So we changed it to require a certification by the Attorney General or the Deputy Attorney General, personally, and no one else, on the ground that this was really a case requiring, in the public interest, prosecution by the United States—a pretty high-level certification, and one not given too easily.

Senator DIRKSEN was satisfied with that, because it preserved what needed to be preserved in the proposed legislation without running afoul of these other propositions—to wit, impeaching the district attorney, which I believe is very much worse, or dealing with a question where State proceedings just go forward to acquittal and the United States is foreclosed out. That is the situation which this bill is trying to reach.

For those reasons, on behalf of Senator HART and myself, we feel that we must oppose the amendment and ask the Senate to reject it.

Mr. DOMINICK. Mr. President, I yield myself 3 minutes for the purpose of asking the managers of the bill some questions about the amendment and about the bill as it is written.

As I believe they know, I have been supporting them all the way through on the open housing provisions, the cloture votes, and the balance of the Dirksen substitute. I should like the RECORD to show that in my opinion the bill does not go far enough with respect to open housing, and I have said so time and again.

However, the provision to which this amendment is directed has bothered me from the beginning, because it seems to leave open—unless we have the Miller amendment—the possibility that a person will find himself faced with two simultaneous prosecutions—one under the State and one under the Federal system.

I ask the manager of the bill whether any thought has been given to this problem: first, as to whether this is a possibility or a probability; and, second, if it is either a possibility or a probability, if there is any way that this situation could be cured by adoption of the Miller amendment or perhaps even some modification of the Miller amendment.

Mr. HART. Mr. President, I yield myself 1 minute.

Certainly, there is no probability. We have a long record—and it is not an unhappy record—in this country of concurrent Federal and State jurisdiction. We are familiar with the McGuire Act and the Federal statute concerning automobile theft. A variety of situations exist in which the same action is a crime under both State and Federal law.

I spent a little time as U.S. district attorney for eastern Michigan. Occasionally, a U.S. attorney is confronted with a choice in a case involving concurrent Federal and State jurisdiction in a criminal case. You normally defer for State prosecution.

However, as the Senator from New York has pointed out, at the strong urging of Senator DIRKSEN, language is explicitly contained in the statute which requires that only the Attorney General, or the Deputy Attorney General, may make the decision that it is necessary, in the public interest. And in order to secure substantial justice, to certify that a prosecution under title I should be brought under title I.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HART. I yield myself one-half minute.

I feel that such a certification is completely adequate, and this was the feeling of the able minority leader, who gave leadership in developing this approach to the matter.

Mr. DOMINICK. Mr. President, I yield myself an additional 2 minutes for the purpose of exploring this matter a little further.

The bill, as now written, provides that no prosecution of any offense described "in this section" shall be undertaken by the United States. The section, I suppose, refers to section 101 of the bill under title I. It does not seem to take in any of the other portions of the bill, including title II or title III. What is the situation with regard to enforcement by the Attorney General under title II? Do we have the same type of limitations in those sections that we have in title I?

Mr. President, I have more time remaining than the managers of the bill and I ask unanimous consent that the time may be taken from my own when they answer my question.

The PRESIDING OFFICER (Mr. MCGOVERN in the chair). Is there objection? The Chair hears none, and it is so ordered.

Mr. HART. I thank the Senator. That was the reason for my apparent abruptness.

The restraint that I described in my reply to the Senator from Colorado's first question, which I indicated I thought appropriate and adequate, is relevant to section 245, which is found under title I of this bill.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. JAVITS I believe that the one assurance the Senator is entitled to have—and I think I am importing something into his consideration—is that the same plan with respect to the Attorney General's action found under section 245, as we would provide for it in this bill, which appears at page 2, lines 6 to 12, inclusive, should, as a matter of legislative intent, be clearly stated to be the intent of the Senate in respect also of title III.

May I explain to the Senator very quickly why it was not actually written into title III. Senator DIRKSEN wrote title III himself, because he had dealt with the housing sections; so he dealt with the penal aspects of interfering with rights under housing, and he failed to repeat what he had himself provided for in respect of worker protection.

So I will state to the Senator—with the authority of the manager of the bill, on the part of both of us—that the intent of the Senate is that the same certification should be made in respect to title III as is made in respect of title I; and if the Senate should reject this amendment, that is one of the reasons why it is rejected.

Mr. DOMINICK. This is still on my time, Mr. President.

I appreciate that, and I believe our making some legislative history will help. But I am not sure that it cures the problem.

We have in Colorado probably as fine a Civil Rights Commission and State law in fair housing, employment, and other areas of this nature as one can get.

I would object vigorously to finding the action of our own State agencies in this field being——

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. DOMINICK. I would object vigorously to finding Colorado, which has taken the lead in this full area of civil rights, suddenly superseded by an Attorney General who decides he wants to get into the act for one reason or another. This is why I brought up the point.

It does not seem logical to have an Attorney General decide that a State is or is not taking prompt and diligent action to cure the problem.

The real objection I see at the present time is the one raised by the distinguished Senator from New York [Mr. JAVITS]. Certainly, it is asking a Federal judge to decide if the State or local law-enforcement official is doing all he should do. It creates a comity problem.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield on the Senator's time.

Mr. JAVITS. My point was as the Senator stated with respect to this added power. The Senator favored this plan, and I pay my tribute to him. I know it was hard for him to do so.

The reason we feel it is essential is because experience has shown you have to be prepared to move in asserting rights. That does not mean you get them, but you must assert them. Witnesses pass away and people cannot be found at the needed time.

With respect to the problem of comity, that is the problem of the Federal court. Think of the kind of dilemma that would be created if the district attorney thought you were assailing him. He would have you in court in 4 months. This is an essential rock on which we would founder if we do not determine where we stand.

If the Senator does not like "certification" perhaps he could suggest a better word. We tried to work this out with the Senator.

The Senator suggested he favors the Miller amendment and he is faced with the same problem, and we face the same thing.

Mr. DOMINICK. I appreciate the statement of the Senator. I gather from what he is saying that, first it is the intention of the manager of the bill in regard to this to have it apply not only to title I but also title III problems, and second, the manager expects the concurrent jurisdiction of this legislation to be used in an exceedingly sparing fashion in any State taking the lead, such as Colorado, to take care of the problems in civil rights.

Mr. JAVITS. Speaking for myself and the Senator from Michigan [Mr. HART], the answer is "Yes."

Mr. MILLER. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MILLER. Mr. President, the Senator from New York suggested that if a local law-enforcement official was not proceeding with proper skill, my amendment would protect him. I would like to make the record clear in that regard.

When I use the phrase "due diligence," that includes proper skill. I am not impugning the motives of any attorney general or criticizing any attorney general. We have a decision to make, and that is whether or not we are going to give any attorney general the power to take away jurisdiction of a case where the local State or local law-enforcement official has promptly, once the alleged offense has been brought to his attention, commenced proper proceedings; and, having done so, goes forward with good faith, due diligence, and reasonable promptness. I think those are reasonable standards to require of State and local law-enforcement officials.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana [Mr. BAYH], the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

On this vote, the Senator from Rhode Island [Mr. PASTORE] is paired with the Senator from Florida [Mr. SMATHERS]. If present and voting, the Senator from Rhode Island would vote "nay" and the Senator from Florida would vote "yea."

I further announce that, if present and voting, the Senator from Indiana [Mr. BAYH] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Nebraska [Mr. HRUSKA], the Senator from Kentucky [Mr. MORTON] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

The Senator from New Hampshire [Mr. COTTON], the Senator from Vermont [Mr. AIKEN], and the Senator from Colorado [Mr ALLOTT] are detained on official business.

If present and voting, the Senator from Colorado [Mr. ALLOTT], the Senator from Tennessee [Mr. BAKER], and the Senator from Illinois [Mr. PERCY] would each vote "nay."

The result was announced—yeas 29, nays 51, as follows:

[No. 45 Leg.]

YEAS—29

| | | |
|---|---|---|
| Byrd, Va. | Hickenlooper | Murphy |
| Byrd, W. Va. | Hill | Russell |
| Carlson | Holland | Sparkman |
| Curtis | Hollings | Stennis |
| Eastland | Jordan, N.C. | Talmadge |
| Ellender | Long, La. | Thurmond |
| Ervin | Mansfield | Tower |
| Fannin | McClellan | Williams, Del. |
| Fulbright | Miller | Young, N. Dak. |
| Hansen | Mundt | |

NAYS—51

| | | |
|---|---|---|
| Anderson | Gruening | Montoya |
| Bartlett | Hart | Morse |
| Bennett | Hatfield | Moss |
| Bible | Jackson | Muskie |
| Boggs | Javits | Nelson |
| Brewster | Jordan, Idaho | Pearson |
| Brooke | Kennedy, Mass. | Pell |
| Burdick | Kennedy, N.Y. | Prouty |
| Cannon | Kuchel | Proxmire |
| Case | Lausche | Randolph |
| Church | Long, Mo. | Ribicoff |
| Clark | Magnuson | Scott |
| Cooper | McGee | Smith |
| Dodd | McGovern | Spong |
| Dominick | Metcalf | Symington |
| Fong | Mondale | Tydings |
| Griffin | Monroney | Williams, N.J. |

NOT VOTING—20

| | | |
|---|---|---|
| Aiken | Harris | Morton |
| Allott | Hartke | Pastore |
| Baker | Hayden | Percy |
| Bayh | Hruska | Smathers |
| Cotton | Inouye | Yarborough |
| Dirksen | McCarthy | Young, Ohio |
| Gore | McIntyre | |

So Mr. MILLER's amendment was rejected.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. MONDALE. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 500

Mr. ERVIN. Mr. President, I call up my amendment No. 500, and ask unanimous consent that I may be permitted to modify it so as to eliminate some unnecessary matters and make it applicable to the star print of the Dirksen amendment.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be stated.

The legislative clerk read as follows:

On page 6, after line 18, add the following new title:

"TITLE II—TESTIMONY OF EYEWITNESS IN CRIMINAL PROCEEDINGS

"SEC. 201. (a) Chapter 223, title 18, United States Code (relating to witnesses and evidence), is amended by adding at the end thereof the following new section:

"'§ 3501. Admissibility in evidence of eyewitness testimony

"'The testimony of a witness that he saw the accused commit or participate in the commission of the crime for which the accused is being tried shall be admissible in evidence in a criminal prosecution in any trial court ordained and established under article III of the Constitution of the United States; and neither the Supreme Court nor any inferior appellate court ordained and established by the Congress under article III of the Constitution of the United States shall have jurisdiction to review, reverse, vacate, modify, or disturb in any way a ruling of such a trial court or any trial court in any State, territory, district, commonwealth, or other possession of the United States admitting in evidence in any criminal prosecution the testimony of a witness that he saw the accused commit or participate in the commission of the crime for which the accused is tried.'

"(b) The section analysis of that chapter is amended by adding at the end thereof the following new item:

"'3501. Admissibility in evidence of eyewitness testimony'."

Change title II to title III.

Mr. ERVIN. Mr. President, the purpose of the amendment is quite simple. Until June of last year, it was held by all the courts of this land that an eyewitness could take the witness stand and testify that he saw the accused commit the crime with which the accused stood charged. The question of the truthfulness of the testimony of the eyewitness was solely for the jury in all courts, Federal and State.

In June of last year, the Supreme Court handed down three decisions: One in the Wade case, one in the Gilbert case, and one in the Stovall case, in which it put an entirely different interpretation upon the right-to-counsel clause of the Bill of Rights and held, for the first time in its history, that it is unconstitutional for a law-enforcement officer having a suspect in custody to permit an eyewitness to look at the suspect for the purpose of identifying the suspect as perpetrator of the crime or exonerating the suspect as the perpetrator of the crime.

So now when an eyewitness takes a look at a suspect in custody in the absence of his lawyer for identification purposes, the Supreme Court holds that the testimony of the eyewitness at the trial to the effect that he saw the accused commit the crime, and that the basis of his identification was solely what he saw at the time he saw the crime committed cannot be received in evidence unless the judge first conducts a preliminary inquiry into the mind of the eyewitness and ascertains by clear and convincing evidence that the alleged forbidden look did not contribute to the psychological certainty of the eyewitness that he identified the accused as the person he saw commit the crime.

This holding is out of line with commonsense as well as the prior sound de-

cisions construing the right-to-counsel clause. This amendment would restore the sensible rule that when an eyewitness takes the stand and testifies that he saw the accused commit the crime, his truthfulness is a question for the jury, and for the jury alone. This amendment restores the law to what it was before the three decisions of June 1967, and is based on the principle that the victims of crime, and society itself, are just as much entitled to justice as the accused.

Mr. HART. Mr. President, I yield myself 30 seconds.

I hope the Senate will reject the amendment. As the Senator from North Carolina has indicated, it goes to three Supreme Court cases and would have the effect of overruling those cases. Surely, this is something that the Judiciary Committee should analyze. It is not appropriate to the legislation before us.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina. [Putting the question].

Mr. ERVIN. Mr. President, I ask for a division.

On a division, the amendment was rejected.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 499

Mr. ERVIN. Mr. President, I send forward my amendment No. 499, modified so as to eliminate certain unnecessary language and to make it conform to the star print of the Dirksen substitute. I ask unanimous consent that I may be permitted to modify it in those respects.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment will be so modified.

The clerk will read the amendment.

The legislative clerk read the amendment, as modified, as follows:

On page 6, after line 18, add the following new title:

"TITLE II—ADMISSIBILITY OF CONFESFESSIONS IN CRIMINAL PROCEEDINGS

"SEC. 201. (a) Chapter 223, title 18, United States Code (relating to witnesses and evidence), is amended by adding at the end thereof the following new sections:

"'§ 3501. Admissibility of confessions

"'The sole test of the admissibility of an admission or confession of an accused in a criminal prosecution in any trial court ordained and established by the Congress under article III of the Constitution of the United States shall be its voluntary characters; and neither the Supreme Court nor any inferior appellate court ordained and established by the Congress under article III of the Constitution of the United States shall have jurisdiction to reverse, vacate, modify, or disturb in any way a ruling of such a trial court in any criminal prosecution admitting in evidence as voluntarily made any admission or confession of an accused if such ruling is supported by any competent evidence admitted at the trial.

"'§ 3502. Reviewability of confessions in State cases

"'Neither the Supreme Court nor any inferior court ordained and established by Congress under article III of the Constitution of the United States shall have jurisdiction to review or to reverse, vacate, modify, or disturb in any way, a ruling of any trial court of any State in any criminal prosecution admitting in evidence as voluntarily made an admission or confession of an accused if such ruling has been affirmed or otherwise upheld by the highest court of the State having appellate jurisdiction of the cause.'

"(b) The section analysis of that chapter is amended by adding at the end thereof the following new items:

"'3501. Admissibility of confessions.

"'3502. Reviewability of confessions in State cases.'"

Change title II to title III.

Mr. ERVIN. Mr. President, this is a very simple amendment. The most convincing evidence of the guilt of any accused is his own voluntary confession that he committed the crime with which he stands charged.

The objective of this amendment is to restore the rule which prevailed in the Federal courts and all the State courts. Prior to the Escobedo and Miranda case, that when an accused voluntarily admits he committed the crime with which he stands charged, his voluntary confession will be received in evidence.

I ask for the yeas and nays on this vote.

The yeas and nays were ordered.

Mr. ERVIN Mr. President, I asked for the yeas and nays because the Senate, just a minute ago, voted down by voice an amendment which provided that the jury alone should determine the truthfulness of the second most convincing evidence of the guilt of an accused, that, the testimony of an eyewitness that he saw accused commit the crime with which he stands charged. Such eyewitness testimony can now be received in evidence without a lot of legal legerdemain. Since that amendment has been voted down, I have asked for a record vote on this amendment.

Mr. JAVITS. Mr. President, I yield myself 1 minute. I think the situation on this amendment is precisely the same as the situation on the previous amendment. Our colleague is just dissatisfied with the position of the U.S. Supreme Court on confessions, a subject with which we have been struggling here in the District of Columbia and all over the country.

As the Senator from Michigan [Mr. HART] said on the previous amendment, this is a problem which has to be analyzed and deliberately put before the Senate as a proposition to make law which will in essence reverse the Supreme Court decision. We certainly can do it. We have the power to do it. It seems to me, as it did to the Senator from Michigan [Mr. HART], most imprudent to do it here under the circumstances of this bill. For that reason, the managers of the bill urge the Senate to reject the amendment.

Mr. ERVIN. Mr. President, it seems to me most sensible to decide that here. The Dirksen substitute is creating new crimes, the extent of which no man can envision. So why not have new laws of evidence as well as new crimes.

Mr. KENNEDY of Massachusetts. Mr. President, first of all, I think there is a real fundamental question of germaneness, as to whether this amendment should be considered at all on this legislation. What is more important, the Supreme Court has stated time and time again that the fourth and fifth amendment protections, cannot be preserved without adherence to the standards which the Court has prescribed for the admission of voluntary confessions. The amendment would eliminate those kinds of protections, and I think would deliberately try to overturn a number of Supreme Court decisions which guarantee those protections and are based on the Constitution.

Mr. ERVIN. Mr. President, my amendment would afford protection to the victims of crime and society itself. When it handed down the Miranda case, the Supreme Court ignored the principle that the victims of crime and society are as much entitled to justice as the accused.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. HARTKE], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Montana [Mr. METCALF], the Senator from Rhode Island [Mr. PASTORE], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from Rhode Island [Mr. PASTORE]. If present and voting, the Senator from Florida would vote "yea," and the Senator from Rhode Island would vote "nay."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Nebraska [Mr. HRUSKA], the Senator from New Hampshire [Mr. COTTON], the Senator from Kentucky [Mr. MORTON], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

If present and voting, the Senator from Tennessee [Mr. BAKER] and the Senator from Illinois [Mr. PERCY] would each vote "nay."

The result was announced—yeas 35, nays 48, as follows:

[No. 46 Leg.]

YEAS—35

| | | |
|---|---|---|
| Bennett | Griffin | Mundt |
| Bible | Hansen | Murphy |
| Byrd, Va. | Hayden | Russell |
| Byrd, W. Va. | Hickenlooper | Sparkman |
| Cannon | Hill | Spong |
| Carlson | Holland | Stennis |
| Curtis | Hollings | Talmadge |
| Eastland | Jordan, N.C. | Thurmond |
| Ellender | Jordan, Idaho | Tower |
| Ervin | Lausche | Williams, Del. |
| Fannin | McClellan | Young, N. Dak. |
| Fulbright | Miller | |

NAYS—48

| | | |
|---|---|---|
| Aiken | Gruening | Montoya |
| Allott | Hart | Morse |
| Anderson | Hatfield | Moss |
| Bartlett | Inouye | Muskie |
| Bayh | Jackson | Nelson |
| Boggs | Javits | Pearson |
| Brewster | Kennedy, Mass. | Pell |
| Brooke | Kennedy, N.Y. | Prouty |
| Burdick | Kuchel | Proxmire |
| Case | Long, Mo. | Randolph |
| Church | Magnuson | Ribicoff |
| Clark | Mansfield | Scott |
| Cooper | McGee | Smith |
| Dodd | McGovern | Symington |
| Dominick | Mondale | Tydings |
| Fong | Monroney | Williams, N.J. |

NOT VOTING—17

| | | |
|---|---|---|
| Baker | Hruska | Pastore |
| Cotton | Long, La. | Percy |
| Dirksen | McCarthy | Smathers |
| Gore | McIntyre | Yarborough |
| Harris | Metcalf | Young, Ohio |
| Hartke | Morton | |

So Mr. ERVIN's amendment (No. 499), as modified, was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HART. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 430

Mr. ERVIN. Mr. President, I call up my amendment No. 430 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. ERVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER (Mr. SPONG in the chair). Is there objection to the request of the Senator from North Carolina? The Chair hears no objection, and it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 430), ordered to be printed in the RECORD, is as follows:

On the first page, between lines 2 and 3, insert the following:

"TITLE I—ACTS OF VIOLENCE"

At the end of the bill, add the following new titles:

"TITLE II—RIGHTS OF INDIANS

"DEFINITIONS

"SEC. 201. For purposes of this title, the term—

"(1) 'Indian tribe' means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;

"(2) 'powers of self-government' means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and

"(3) 'Indian court' means any Indian tribal court or court of Indian offense.

"INDIAN RIGHTS

"SEC. 202. No Indian tribe in exercising powers of self-government shall—

"(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

"(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

"(3) subject any person for the same offense to be twice put in jeopardy;

"(4) compel any person in any criminal case to be a witness against himself;

"(5) take any private property for a public use without just compensation;

"(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

"(7) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six months or a fine of $500, or both;

"(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

"(9) pass any bill of attainder or ex post facto law; or

"(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

"HABEAS CORPUS

"SEC. 203. The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

"TITLE III—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

"SEC. 301. The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this title, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

"SEC. 302. There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this title.

"TITLE IV—JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

"ASSUMPTION BY STATE

"SEC. 401. (a) The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

"(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

"ASSUMPTION BY STATE OF CIVIL JURISDICTION

"SEC. 402. (a) The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

"(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

"(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

"RETROCESSION OF JURISDICTION BY STATE

"SEC. 403. (a) The United States is authorized to accept a retrocession by any State of all or any measure of the criminal or civil jurisdiction, or both, acquired by such State pursuant to the provisions of section 1162 of title 18 of the United States Code, section 1360 of title 28 of the United States Code, or section 7 of the Act of August 15, 1953 (67 Stat. 588), as it was in effect prior to its repeal by subsection (b) of this section.

"(b) Section 7 of the Act of August 15, 1953 (67 Stat. 588), is hereby repealed, but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its repeal.

"CONSENT TO AMEND STATE LAWS

"SEC. 404. Notwithstanding the provisions of any enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State consti-

tution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil or criminal jurisdiction in accordance with the provisions of this title. The provisions of this title shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes, as the case may be.

"ACTIONS NOT TO ABATE

"SEC. 405. (a) No action or proceeding pending before any court or agency of the United States immediately prior to any cession of jurisdiction by the United States pursuant to this title shall abate by reason of that cession. For the purposes of any such action or proceeding, such cession shall take effect on the day following the date of final determination of such action or proceeding.

"(b) No cession made by the United States under this title shall deprive any court of the United States of jurisdiction to hear, determine, render judgment, or impose sentence in any criminal action instituted against any person for any offense committed before the effective date of such cession, if the offense charged in such action was cognizable under any law of the United States at the time of the commission of such offense. For the purposes of any such criminal action, such cession shall take effect on the day following the date of final determination of such action.

"SPECIAL ELECTION

"SEC. 406. State jurisdiction acquired pursuant to this title with respect to criminal offenses or civil causes of action, or with respect to both, both be applicable in Indian country only where the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults.

"TITLE V—OFFENSES WITHIN INDIAN COUNTRY

"AMENDMENT

"SEC. 501. Section 1153 of title 18 of the United States Code is amended by inserting immediately after "weapon,', the following: 'assault resulting in serious bodily injury,'.

"TITLE VI—EMPLOYMENT OF LEGAL COUNSEL

"APPROVAL

"SEC. 601. Notwithstanding any other provision of law, if any application made by an Indian, Indian tribe, Indian council, or any band or group of Indians under any law requiring the approval of the Secretary of the Interior or the Commissioner of Indian Affairs of contracts or agreements relating to the employment of legal counsel (including the choice of counsel and the fixing of fees) by any such Indian, tribe, council, band, or group is neither granted nor denied within ninety days following the making of such application, such approval shall be deemed to have been granted.

"TITLE VII—MATERIALS RELATING TO CONSTITUTIONAL RIGHTS OF INDIANS

"SECRETARY OF INTERIOR TO PREPARE

"SEC. 701. (a) In order that the constitutional rights of Indians might be fully protected, the Secretary of the Interior is authorized and directed to—

"(1) have the document entitled 'Indian Affairs, Laws and Treaties' (Senate Document Numbered 319, volumes 1 and 2, Fifty-eighth Congress), revised and extended to include all treaties, laws, Executive orders, and regulations relating to Indian affairs in force on September 1, 1967, and to have such revised document printed at the Government Printing Office;

"(2) have revised and republished the treatise entitled 'Federal Indian Law'; and

"(3) have prepared, to the extent determined by the Secretary of the Interior to be feasible, an accurate compilation of the official opinions, published and unpublished, of the Solicitor of the Department of the Interior relating to Indian affairs rendered by the Solicitor prior to September 1, 1967, and to have such compilation printed as a Government publication at the Government Printing Office.

"(b) With respect to the document entitled 'Indian Affairs, Laws and Treaties' as revised and extended in accordance with paragraph (1) of subsection (a), and the compilation prepared in accordance with paragraph (3) of such subsection, the Secretary of the Interior shall take such action as may be necessary to keep such document and compilation current on an annual basis.

"(c) There is authorized to be appropriated for carrying out the provisions of this title, with respect to the preparation but not including printing, such sum as may be necessary."

Amend the title so as to read: "An Act to prescribe penalties for certain acts of violence or intimidation; to protect the constitutional rights of Indians; and for other purposes."

Mr. ERVIN. Mr. President, this will be a very interesting amendment in its present context. It gives the Senate an opportunity to show whether it believes in constitutional rights for the red man.

The reservation Indian now has no constitutional rights. The purpose of the amendment is to give these Indians constitutional rights which other Americans enjoy.

This is the measure mentioned in the Indian message of President Johnson, in which he states:

A new Indian Rights Bill is pending in the Congress. It would protect the individual rights of Indians in such matters as freedom of speech and religion, unreasonable search and seizure, a speedy and fair trial, and the right to habeas corpus. The Senate passed an Indian bill of Rights last year. *I urge the Congress to complete action on that Bill of Rights in the current session.*

The pending amendment gives Congress an opportunity to do so.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. ERVIN. Mr. President, I yield to the Senator from North Dakota on his own time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized on his own time.

Mr. BURDICK. Mr. President, have we passed an identical bill to this measure already?

Mr. ERVIN. The Senator is correct, but the House has not.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. ERVIN. I will yield to the Senator from Pennsylvania on the Senator's time, not on my time.

Mr. CLARK. Has the proposal of the Senator received consideration from any committee of the Senate?

Mr. ERVIN. Yes, it has. It has been under consideration for approximately 5 years.

Mr. CLARK. What committee?

Mr. ERVIN. The Subcommittee on Constitutional Rights of the Committee on the Judiciary.

Mr. CLARK. Why has the measure not been reported?

Mr. ERVIN. It has been.

Mr. CLARK. Is it on the calendar?

Mr. ERVIN. It has been passed.

Mr. CLARK. Why should we pass it again?

Mr. ERVIN. Because the Dirksen substitute will go to the House, and if the House passes the Dirksen substitute, the measure will then be passed as a part of it. I would like to give every Senator an opportunity to go on record and show that he believes in constitutional rights for red people.

Mr. HART. Mr. President, I suggest the absence of a quorum, and it will be very brief.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I should like to have the attention of the distinguished Senator from North Carolina especially, and the Senate in general.

It will be recalled that some months ago the Senate passed unanimously an Indian rights bill which was introduced and sponsored by the distinguished Senator from North Carolina, reported unanimously by the Committee on the Judiciary, and passed this body unanimously. Since that time, it has been languishing in the House.

I am recalling some matters from faint memory, but it seems to me that we did consider some proposed legislation last year and, if I am correct, at that time I believe I assured the distinguished Senator that hearings would be held on his proposed legislation. Will the Senator inform me whether I am correct?

Mr. ERVIN. I believe the distinguished majority leader is confusing the Indian bill with the judicial review bill.

Mr. MANSFIELD. The Senator is correct. I did confuse the two issues.

I have just talked with the chairman of the House Judiciary Committee, Mr. CELLER, in New York. He said he is doing his very best to get consideration of the bill, the Ervin bill, which passed this body. He is hopeful——

Mr. ERVIN. If the Senator will pardon me, my information is that the Indian bill, instead of being referred to the Judiciary Committee, was referred to the Committee on Interior and Insular Affairs.

Mr. MANSFIELD. I agree we are talking about different bills, because he said he was considering a bill which had passed the Senate and he would try to get it out in a hurry.

Now I have to backtrack on everything I had in mind because I thought I had

the makings of an arrangement that would satisfy all parties concerned.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the distinguished Senator from North Dakota [Mr. BURDICK] has been in contact with the Indian Affairs Subcommittee of the House of Representatives, and he has been assured there is no opposition of any consequence to the Ervin bill seeking to establish rights of Indians, rights long overdue, may I say, and that it is anticipated that in view of the President's message on Indians a day or so ago, that hearings will be held on that bill within 2 to 3 weeks.

Mr. BURDICK. The Senator is substantially correct.

Mr. MANSFIELD. It is my further understanding that there is a question of germaneness about the pending amendment to the substitute. I would hope, on the basis of the assurances achieved by the distinguished Senator from North Dakota [Mr. BURDICK] that possible consideration would be given to perhaps withdrawing that amendment at this time on the premise that every effort would be made to expedite action on the Ervin bill which passed this body unanimously and which is now before the Indian Affairs Subcommittee of the other body; and whether or not he agrees, the question of germaneness still remains and the premise, implied or implicit, still remains.

Mr. ERVIN. Mr. President, I have not talked to members of the Interior Committee of the House of Representatives or the staff of the Interior Committee on the House of Representatives. But members of the staff of the Subcommittee on Constitutional Rights, which processed this bill, have informed me that they have learned there is very substantial opposition in that House committee to this bill.

I tried to get this amendment incorporated in the Hart bill in the Committee on the Judiciary and was voted down 8 to 7.

As the majority leader said, the Indians are long overdue their constitutional rights. I am not an expert on the problem of germaneness, but it seems to me a bill which proposes to give protection to everybody else it would be in harmony with an amendment to give protection to the Indians.

As I understand the rules, should the Presiding Officer of the Senate rule this amendment not germane, I would have a right to appeal the ruling, and in that event if the majority of the Senate should really feel that Indians should have constitutional rights and that an amendment which undertakes to give constitutional rights to them is germane to the pending Dirksen substitute, the Senate would have power to incorporate my amendment in the substitute.

Mr. BURDICK. Mr. President, my conversation was with Congressman JAMES A. HALEY of Florida. He said the subcommittee had been busy with other matters. He does not know too much about the bill. He knew of no opposition. He did not say there was no opposition; he said he knew of none; and that hearings would be held on the bill in 2 to 3 weeks.

Mr. ERVIN. The good Congressman might be just as ignorant on that point as the Senator from North Carolina was a moment ago. I did not think that anybody supporting a bill to secure constitutional rights to black people would be opposed to giving constitutional rights to red people. But I am apparently mistaken.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. BURDICK. Apparently the delay in taking care of the bill is not due to any opposition, but to the heavy calendar and some other bills.

Mr. ERVIN. We could relieve the House committee of the necessity for that work. All we have to do would be to incorporate my amendment in the bill. The House could adopt it and the whole problem would be solved without placing an added burden on the House committee.

Mr. MANSFIELD. Mr. President, to bring this matter to a head, I make the point of order—and I do this reluctantly and not wholeheartedly, by any means, but as a friend of the court, as lawyers say—I make the point of order that the pending amendment is not germane to the legislation now under consideration, and I ask for a ruling by the Chair.

The ACTING PRESIDENT pro tempore. The Chair has examined the amendment and has tried the best he can to——

Mr. ERVIN. Mr. President, may we have order in the Chamber?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Chair has examined the amendment. The present occupant of the Chair is reasonably familiar with the amendment and with some of the Indian problems.

The amendment is broader than the scope of the bill now before us. The amendment would affect treaty rights, and tribal courts. It would amend certain acts of the law to take place in Indian country as to the jurisdiction of the States and Federal courts. It would also take care of some of the provisions of Indian tribal activities, such as amendment of decisions on Indian consent to come under State criminal law.

So that it would be the opinion of the Chair that the amendment is broader than the act we are seeking to amend and, therefore, under a strict interpretation of the rule is not germane.

Mr. ERVIN. Mr. President, inasmuch as the ruling of the Chair scalps the Indians, I appeal from the ruling of the Chair and ask the Senate to reverse it. On the appeal, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President——

The ACTING PRESIDENT pro tempore. Under rule XXII, an appeal from a ruling of the Chair is not debatable.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. HANSEN. Mr. President——

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The question is: Shall the decision of the Chair stand as the judgment of the Senate. Under rule XXII this ruling of the Chair is not debatable.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina will state it.

Mr. ERVIN. Mr. President, all Senators who believe that the amendment is germane to the bill should vote "nay"; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. HART. Mr. President, a further parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Michigan will state it.

Mr. HART. Then, to sustain the ruling of the Chair, Senators should vote "yea"; is that not correct?

The ACTING PRESIDENT pro tempore. The Senator is correct. A vote of "yea" will sustain the ruling of the Chair.

On this question the yeas and nays have been ordered; and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished Senator from Rhode Island [Mr. PASTORE]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Pennsylvania [Mr. CLARK], the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. HARTKE], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota, [Mr. MCCARTHY], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from New Hampshire [Mr. COTTON], the Senator from Nebraska [Mr. HRUSKA], the Senator from Kentucky [Mr. MORTON], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

If present and voting, the Senator from Tennessee [Mr. BAKER] and the Senator from Illinois [Mr. PERCY] would each vote "nay."

The result was announced—yeas 28, nays 54, as follows:

[No. 47 Leg.]

YEAS—28

| | | |
|---|---|---|
| Aiken | Inouye | Nelson |
| Boggs | Javits | Pearson |
| Brewster | Kennedy, Mass. | Proxmire |
| Brooke | Kuchel | Randolph |
| Case | Long, Mo. | Scott |
| Cooper | Metcalf | Smith |
| Ellender | Mondale | Symington |
| Griffin | Morse | Williams, N.J. |
| Hart | Moss | |
| Hatfield | Muskie | |

NAYS—54

| | | |
|---|---|---|
| Allott | Fong | Miller |
| Anderson | Fulbright | Monroney |
| Bartlett | Gruening | Montoya |
| Bayh | Hansen | Mundt |
| Bennett | Hayden | Murphy |
| Bible | Hickenlooper | Pell |
| Burdick | Hill | Prouty |
| Byrd, Va. | Holland | Ribicoff |
| Byrd, W. Va. | Hollings | Russell |
| Cannon | Jackson | Sparkman |
| Carlson | Jordan, N.C. | Spong |
| Church | Jordan, Idaho | Stennis |
| Curtis | Kennedy, N.Y. | Talmadge |
| Dodd | Lausche | Thurmond |
| Dominick | Magnuson | Tower |
| Eastland | McClellan | Tydings |
| Ervin | McGee | Williams, Del. |
| Fannin | McGovern | Young, N. Dak. |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—17

| | | |
|---|---|---|
| Baker | Hartke | Pastore |
| Clark | Hruska | Percy |
| Cotton | Long, La. | Smathers |
| Dirksen | McCarthy | Yarborough |
| Gore | McIntyre | Young, Ohio |
| Harris | Morton | |

The ACTING PRESIDENT pro tempore. By this vote, the ruling of the Chair is rejected.

The question now arises on the amendment No. 430 of the Senator from North Carolina.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the ruling of the Chair was overruled.

Mr. HOLLAND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, the Senate some months ago made very clear its attitude on the substance of this amendment. It has made very clear its desire that we continue on the course set some months ago.

I rise to support the amendment of the Senator from North Carolina. The committee is willing to accept the amendment.

Mr. ERVIN. Mr. President, I would like to have the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment of the Senator from North Carolina. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CASE (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Oklahoma [Mr. HARRIS]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Pennsylvania [Mr. CLARK], the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. HARTKE], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG], are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. CLARK], the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. HARTKE], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Nebraska [Mr. HRUSKA], the Senator from New Hampshire [Mr. COTTON], the Senator from Arizona [Mr. FANNIN], the Senator from Kentucky [Mr. MORTON], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

If present and voting, the Senator from Tennessee [Mr. BAKER], the Senator from Illinois [Mr. PERCY], and the Senator from Arizona [Mr. FANNIN] would each vote "yea."

The pair of the Senator from New Jersey [Mr. CASE] has previously been announced.

The result was announced—yeas 81, nays 0, as follows:

[No. 48 Leg.]

YEAS—81

| | | |
|---|---|---|
| Aiken | Hansen | Montoya |
| Allott | Hart | Morse |
| Anderson | Hatfield | Moss |
| Bartlett | Hayden | Mundt |
| Bayh | Hickenlooper | Murphy |
| Bennett | Hill | Muskie |
| Bible | Holland | Nelson |
| Boggs | Hollings | Pearson |
| Brewster | Inouye | Pell |
| Brooke | Jackson | Prouty |
| Burdick | Javits | Proxmire |
| Byrd, Va. | Jordan, N.C. | Randolph |
| Byrd, W. Va. | Jordan, Idaho | Ribicoff |
| Cannon | Kennedy, Mass. | Russell |
| Carlson | Kennedy, N.Y. | Scott |
| Church | Kuchel | Smith |
| Cooper | Lausche | Sparkman |
| Curtis | Long, Mo. | Spong |
| Dodd | Magnuson | Stennis |
| Dominick | Mansfield | Symington |
| Eastland | McClellan | Talmadge |
| Ellender | McGee | Thurmond |
| Ervin | McGovern | Tower |
| Fong | Metcalf | Tydings |
| Fulbright | Miller | Williams, N.J. |
| Griffin | Mondale | Williams, Del. |
| Gruening | Monroney | Young, N. Dak. |

NAYS—0

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Case, against.

NOT VOTING—18

| | | |
|---|---|---|
| Baker | Harris | Morton |
| Clark | Hartke | Pastore |
| Cotton | Hruska | Percy |
| Dirksen | Long, La. | Smathers |
| Fannin | McCarthy | Yarborough |
| Gore | McIntyre | Young, Ohio |

So Mr. ERVIN's amendment (No. 430) was agreed to.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 504

Mr. ERVIN. Mr. President, I call up my amendment No. 504, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from North Carolina [Mr. ERVIN], proposes an amendment as follows:

On page 10, after line 24, insert the following:

"SEC. 3. Section 8(b)(1)(A) of the National Labor Relations Act (29 U.S.C. 158 (b)(1)(A)) is amended by striking out the semicolon at the end of the proviso and inserting in lieu thereof a colon and the following: *'Provided further,* That it shall be an unfair labor practice under this section for a labor organization to impose or threaten to impose any fine or other economic sanction against any person for exercising any rights under section 7 of this Act or for invoking the processes of the Board;' ".

On page 10, line 21, redesignate "SEC. 3" as "SEC. 4".

Mr. MORSE. Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Senator from North Carolina.

Mr. ERVIN. Mr. President, the American Federation of Television and Radio Artists, Kansas City Local, AFL–CIO, of Kansas City, Mo., went on strike. They were operating under a union shop contract. After the union shop contract had expired, and presumably no longer any obligation remained upon the employees to maintain their union membership, six of the members of the local resigned their union membership and refused to participate in the strike, claiming they thought the strike was unjustified.

In so doing, they thought they were exercising their rights under the Taft-Hartley Act, which says that employees may participate in concerted activities or refrain from so doing.

These people were fined by their local unions, the fines ranging from $10,000 to $20,000. They appealed to the regional director and also to the NLRB general counsel to prefer an unfair labor charge on the basis of that action. The regional director refused to do so, and when they appealed to the general counsel, he entered the following ruling:

The appeal is denied. The action of the union in fining the six individuals concerned did not provide a substantial basis for an unfair labor practice finding under the circumstances here disclosed.

I hope to obviate such injustice as that

to free Americans in the future, and for that reason offer this amendment.

Mr. MORSE. Mr. President, a point of order. The pending amendment is not a civil rights amendment at all. It is a labor amendment and ought to be considered by the labor committee.

May I state, as a member of the Committee on Labor and Public Welfare that there have been no hearings on this subject matter. Furthermore, I am clearly satisfied that under the rules of the Senate it has no place in the pending bill.

I raise the point of order that the amendment is not germane.

The ACTING PRESIDENT pro tempore. The Chair is of the opinion that the point of order is well taken. The amendment is not germane to the classic provisions of rule XXII. It would be referred to another committee other than the committee that originated the pending measure. If it were originally introduced, the Chair would refer it to the Committee on Labor and Public Welfare.

Mr. ERVIN. Mr. President, the Senator from North Carolina agrees with the Chair that the ruling of the Chair is correct in this case. For that reason, I will not appeal from it. My amendment would have been in order had cloture not be voted.

The ACTING PRESIDENT pro tempore. The Chair is now batting .500.

Are there any further amendments?

The question is on agreeing to the Dirksen substitute, as amended, for the committee substitute.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Committee on the Judiciary in the nature of a substitute for the bill, as amended by the Dirksen amendment in the nature of a substitute therefor.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 30 seconds.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. Mr. President, am I correct in understanding that we are now voting finally on the Dirksen substitute as perfected by amendments?

The ACTING PRESIDENT pro tempore. The Senator is substantially correct. We are now voting on the committee substitute as amended by the Dirksen substitute.

Mr. RUSSELL. Mr. President, I make a point of order; we are not voting finally on it.

The ACTING PRESIDENT pro tempore. We are voting on the committee substitute as amended by the Dirksen substitute for the bill.

Mr. JAVITS. Mr. President, I yield myself another 30 seconds.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I inquire whether amendments will be in order from now on in any way to the bill.

The ACTING PRESIDENT pro tempore. If the present proposition is voted upon in the affirmative, no further amendments will be in order.

Mr. JAVITS. Mr. President, under the circumstances, third reading is not required in order to shut off amendments, but is required by the rules.

The ACTING PRESIDENT pro tempore. It would have to have a third reading. However, agreement to the present pending rollcall on the present substitute would shut off any further amendments to the bill.

The question is on agreeing to the Dirksen substitute, as amended, for the committee substitute.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HICKENLOOPER (when his name was called). On this vote I have a pair with the senior Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MILLER (when his name was called). Mr. President, on this vote I have a pair with the Senator from Nebraska [Mr. HRUSKA]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. BYRD of West Virginia. I announce that the Senator from Pennsylvania [Mr. CLARK], the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from Louisiana [Mr. LONG], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Florida [Mr. SMATHERS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are necessarily absent.

I also announce that the Senator from Oklahoma [Mr. HARRIS] is absent because of an illness in his family.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. CLARK], the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. HARTKE], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] would each vote "yea."

On this vote, the Senator from Rhode Island [Mr. PASTORE] is paired with the Senator from Florida [Mr. SMATHERS]. If present and voting, the Senator from Rhode Island would vote "yea," and the Senator from Florida would vote "nay."

On this vote, the Senator from Oklahoma [Mr. HARRIS] is paired with the Senator from Louisiana [Mr. LONG]. If present and voting, the Senator from Oklahoma would vote "yea," and the Senator from Louisiana would vote "nay."

Mr. KUCHEL. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Nebraska [Mr. HRUSKA], the Senator from New Hampshire [Mr. COTTON], the Senator from Arizona [Mr. FANNIN], the Senator from Kentucky [Mr. MORTON], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

If present and voting, the Senator from Tennessee [Mr. BAKER], the Senator from Kentucky [Mr. MORTON], and the Senator from Illinois [Mr. PERCY] would each vote "yea."

On this vote, the Senator from New Hampshire [Mr. COTTON] is paired with the Senator from Arizona [Mr. FANNIN]. If present and voting, the Senator from New Hampshire would vote "yea," and the Senator from Arizona would vote "nay."

The positions of the Senator from Illinois [Mr. DIRKSEN], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Nebraska [Mr. HRUSKA], and the Senator from Iowa [Mr. MILLER] have been previously announced.

The result was announced—yeas 61, nays 19, as follows:

[No. 49 Leg.]

YEAS—61

| | | |
|---|---|---|
| Aiken | Gruening | Montoya |
| Allott | Hansen | Morse |
| Anderson | Hart | Moss |
| Bartlett | Hatfield | Mundt |
| Bayh | Inouye | Murphy |
| Bennett | Jackson | Muskie |
| Bible | Javits | Nelson |
| Boggs | Jordan, Idaho | Pearson |
| Brewster | Kennedy, Mass. | Pell |
| Brooke | Kennedy, N.Y. | Prouty |
| Burdick | Kuchel | Proxmire |
| Cannon | Lausche | Randolph |
| Carlson | Long, Mo. | Ribicoff |
| Case | Magnuson | Scott |
| Church | Mansfield | Smith |
| Cooper | McCarthy | Symington |
| Curtis | McGee | Tydings |
| Dodd | McGovern | Williams, N.J. |
| Dominick | Metcalf | Young, N. Dak. |
| Fong | Mondale | |
| Griffin | Monroney | |

NAYS—19

| | | |
|---|---|---|
| Byrd, Va. | Holland | Stennis |
| Byrd, W. Va. | Hollings | Talmadge |
| Eastland | Jordan, N.C. | Thurmond |
| Ellender | McClellan | Tower |
| Ervin | Russell | Williams, Del. |
| Fulbright | Sparkman | |
| Hill | Spong | |

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mr. Hickenlooper, against.
Mr. Miller, against.

NOT VOTING—18

| | | |
|---|---|---|
| Baker | Harris | Morton |
| Clark | Hartke | Pastore |
| Cotton | Hayden | Percy |
| Dirksen | Hruska | Smathers |
| Fannin | Long, La. | Yarborough |
| Gore | McIntyre | Young, Ohio |

So the committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the substitute amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment

of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question now is on the final passage of the bill as amended.

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## INTERFERENCE WITH CIVIL RIGHTS

(In accordance with the order entered March 4, 1968, CONGRESSIONAL RECORD, page 4988, the Dirksen substitute, as amended thus far, is printed herewith.)

### TITLE I—INTERFERENCE WITH FEDERALLY PROTECTED ACTIVITIES

SEC. 101. (a) That chapter 13, civil rights, title 18, United States Code, is amended by inserting immediately at the end thereof the following new section, to read as follows:

"§245. Federally protected activities

"(a)(1) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law. No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General or the Deputy Attorney General that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice, which function of certification may not be delegated.

"(2) Nothing in this subsection shall be construed to limit the authority of Federal officers, or a Federal grand jury, to investigate possible violations of this section.

"(b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with,

"(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

"(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election;

"(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States;

"(C) applying for or enjoying employment, or any perquisite thereof, by any agency of the United States;

"(D) serving, or attending upon any court in connection with possible service, as a grant or petit juror in any court of the United States;

"(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance; or

"(2) any person because of his race, color, religion or national origin and because he is or has been—

"(A) enrolling in or attending any public school or public college;

"(B) participating in or enjoying any benefit, service, privilege, program, facility or activity provided or administered by any State or subdivision thereof;

"(C) applying for or enjoying employment, or any perquisite thereof, by any private employer or any agency of any State or subdivision thereof, or joining or using the services or advantages of any labor organization, hiring hall, or employment agency;

"(D) serving, or attending upon any court of any State in connection with possible service, as a grand or petit juror;

"(E) traveling in or using any facility of interstate commerce, or using any vehicle, terminal, or facility of any common carrier by motor, rail, water, or air;

"(F) enjoying the goods, services, facilities, privileges, advantages, or accommodations of any inn, hotel, motel, or other establishment which provides lodging to transient guests, or of any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility which serves the public and which is principally engaged in selling food or beverages for consumption on the premises, or of any gasoline station, or of any motion picture house, theater, concert hall, sports arena, stadium, or any other place of exhibition or entertainment which serves the public, or of any other establishment which serves the public, and (i) which is located within the premises of any of the aforesaid establishments or within the premises of which is physically located any of the aforesaid establishments, and (ii) which holds itself out as serving patrons of such establishments; or

"(3) during or incident to a riot or civil disorder, any person engaged in a business in commerce or affecting commerce, including, but not limited to, any person engaged in a business which sells or offers for sale to interstate travelers a substantial portion of the articles, commodities, or services which it sells or where a substantial portion of the articles or commodities which it sells or offers for sale have moved in commerce; or

"(4) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

"(A) participating, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F); or

"(B) affording another person or class of persons opportunity or protection to so participate; or

"(5) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be fined not more than $1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than $10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life. As used in this section, the term 'participating lawfully in speech or peaceful assembly' shall not mean the aiding, abetting, or inciting of other persons to riot or to commit any act of physical violence upon any individual or against any real or personal property in furtherance of a riot. Nothing in subparagraph (2)(F) or (3)(A) of this subsection shall apply to the proprietor of any establishment which provides lodging to transient guests, or to any employee acting on behalf of such proprietor, with respect to the enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of such establishment if such establishment is located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor as his residence.

"(c) Nothing in this section shall be construed so as to deter any law enforcement officer from lawfully carrying out the duties of his office; and no law enforcement officer shall be considered to be in violation of this section for lawfully carrying out the duties of his office or lawfully enforcing ordinances and laws of the United States, the District of Columbia, any of the several States, or any political subdivision of a State. For purposes of the preceding sentence, the term 'law enforcement officer' means any officer of the United States, the District of Columbia, a State, or political subdivision of a State, who is empowered by law to conduct investigations of, or make arrests because of, offenses against the United States, the District of Columbia, a State, or a political subdivision of a State."

(b) Nothing contained in this section shall apply to or affect activities under title II of this Act.

(c) The provisions of this section shall not apply to acts or omissions on the part of law enforcement officers, members of the National Guard, as defined in section 101(9) of title 10, United States Code, members of the organized militia of any State or the District of Columbia, not covered by such section 101(9), or members of the Armed Forces of the United States, who are engaged in suppressing a riot or civil disturbance or restoring law and order during a riot or civil disturbance.

SEC. 102. The analysis of chapter 13 of title 18 of the United States Code is amended by adding at the end thereof the following:

"245. Federally protected activities."

SEC. 103. (a) Section 241 of title 18, United States Code, is amended by striking out the final paragraph thereof and substituting the following:

"They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life."

(b) Section 242 of title 18, United States Code, is amended by striking out the period at the end thereof and adding the following: "; and if death results shall be subject to imprisonment for any term of years or for life."

(c) Subsections (a) and (c) of section 12 of the Voting Rights Act of 1965 (79 Stat. 443, 444) are amended by striking out the words "or (b)" following the words "11(a)".

SEC. 104. (a) Title 18 of the United States Code is amended by inserting, immediately after chapter 101 thereof, the following new chapter:

"CHAPTER 102.—RIOTS

"Sec.
"2101. Riots.
"2102. Definitions.

"§ 2101. Riots

"(a)(1) Whoever travels in interstate or foreign commerce or uses any facility of interstate or foreign commerce, including, but not limited to, the mail, telegraph, telephone, radio, or television, with intent—

"(A) to incite a riot; or

"(B) to organize, promote, encourage, participate in, or carry on a riot; or

"(C) to commit any act of violence in furtherance of a riot; or

"(D) to aid or abet any person in inciting or participating in or carrying on a riot or committing any act of violence in furtherance of a riot;

and who either during the course of any such travel or use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraph (A) (B), (C), or (D) of this paragraph:

"Shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(b) In any prosecution under this section, proof that a defendant engaged or attempted to engage in one or more of the overt acts described in subparagraph (A), (B), (C), or (D) of paragraph (1) of subsection (a) and (1) has traveled in interstate or foreign commerce, or (2) has use of or used any facility of interstate or foreign commerce; including but not limited to, mail, telegraph, telephone, radio, or television, to communicate with or broadcast to any person or group of persons prior to such overt acts, such travel or use shall be admissible proof to establish that such defendant traveled in or used such facility of interstate or foreign commerce.

"(c) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

"(d) Whenever, in the opinion of the Attorney General or of the appropriate officer of the Department of Justice charged by law or under the instructions of the Attorney General with authority to act, any person shall have violated this chapter, the Department shall proceed as speedily as possible with a prosecution of such person hereunder and with any appeal which may lie from any decision adverse to the Government resulting from such prosecution; or in the alternative shall report in writing, to the respective Houses of the Congress, the Department's reason for not so proceeding.

"(e) Nothing contained in this section shall be construed to make it unlawful for any person to travel in, or use any facility of, interstate or foreign commerce for the purpose of pursuing the legitimate objectives of organized labor, through orderly and lawful means.

"(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section; nor shall anythng in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law.

"§ 2102. Definitions

"(a) As used in this chapter, the term 'riot' means a public disturbance involving (1) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual or (2) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

"(b) As used in this chapter, the term 'to incite a riot', or 'to organize, promote, encourage, participate in, or carry on a riot', includes, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written (1) advocacy of ideas or (2) expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit any such act or acts."

(b) The table of contents to "PART I.—CRIMES" of title 18, United States Code, is amended by inserting after the following chapter reference:

"101. Records and reports ---------- 2071"

a new chapter reference as follows:

"102. Riots ---------- 2101".

## TITLE II—RIGHTS OF INDIANS

### DEFINITIONS

SEC. 201. For purposes of this title, the term—

(1) "Indian tribe" means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;

(2) "powers of self-government" means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and

(3) "Indian court" means any Indian tribal court or court of Indian offense.

### INDIAN RIGHTS

SEC. 202. No Indian tribe in exercising powers of self-government shall—

(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

(7) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six months or a fine of $500, or both;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill of attainder or ex post facto law; or

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

### HABEAS CORPUS

SEC. 203. The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

## TITLE III—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

SEC. 301. The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this title, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

SEC. 302. There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this title.

## TITLE IV—JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

### ASSUMPTION BY STATE

SEC. 401. (a) The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

### ASSUMPTION BY STATE OF CIVIL JURISDICTION

SEC. 402. (a) The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is

held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

RETROCESSION OF JURISDICTION BY STATE

SEC. 403. (a) The United States is authorized to accept a retrocession by any State of all or any measure of the criminal or civil jurisdiction, or both, acquired by such State pursuant to the provisions of section 1162 of title 18 of the United States Code, section 1360 of title 28 of the United States Code, or section 7 of the Act of August 15, 1953 (67 Stat. 588), as it was in effect prior to its repeal by subsection (b) of this section.

(b) Section 7 of the Act of August 15, 1953 (67 Stat. 588), is hereby repealed, but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its repeal.

CONSENT TO AMEND STATE LAWS

SEC. 404. Notwithstanding the provisions of any enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil or criminal jurisdiction in accordance with the provisions of this title. The provisions of this title shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes, as the case may be.

ACTIONS NOT TO ABATE

SEC. 405. (a) No action or proceeding pending before any court or agency of the United States immediately prior to any cession of jurisdiction by the United States pursuant to this title shall abate by reason of that cession. For the purposes of any such action or proceeding, such cession shall take effect on the day following the date of final determination of such action or proceeding.

(b) No cession made by the United States under this title shall deprive any court of the United States of jurisdiction to hear, determine, render judgment, or impose sentence in any criminal action instituted against any person for any offense committed before the effective date of such cession, if the offense charged in such action was cognizable under any law of the United States at the time of the commission of such offense. For the purposes of any such criminal action, such cession shall take effect on the day following the date of final determination of such action.

SPECIAL ELECTION

SEC. 406. State jurisdiction acquired pursuant to this title with respect to criminal offenses or civil causes of action, or with respect to both, shall be applicable in Indian country only where the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults.

## TITLE V—OFFENSES WITHIN INDIAN COUNTRY

AMENDMENT

SEC. 501. Section 1153 of title 18 of the United States Code is amended by inserting immediately after "weapon,", the following: "assault resulting in serious bodily injury,".

## TITLE VI—EMPLOYMENT OF LEGAL COUNSEL

APPROVAL

SEC. 601. Notwithstanding any other provision of law, if any application made by an Indian, Indian tribe, Indian council, or any band or group of Indians under any law requiring the approval of the Secretary of the Interior or the Commissioner of Indian Affairs of contracts or agreements relating to the employment of legal counsel (including the choice of counsel and the fixing of fees) by any such Indians, tribe, council, band, or group is neither granted nor denied within ninety days following the making of such application, such approval shall be deemed to have been granted.

## TITLE VII—MATERIALS RELATING TO CONSTITUTIONAL RIGHTS OF INDIANS

SECRETARY OF INTERIOR TO PREPARE

SEC. 701. (a) In order that the constitutional rights of Indians might be fully protected, the Secretary of the Interior is authorized and directed to—

(1) have the document entitled "Indian Affairs, Laws and Treaties" (Senate Document Numbered 315, volumes 1 and 2, Fifty-eighth Congress), revised and extended to include all treaties, laws, Executive orders and regulations relating to Indian affairs in force on September 1, 1967, and to have such revised document printed at the Government Printing Office;

(2) have revised and republished the treatise entitled "Federal Indian Law"; and

(3) have prepared, to the extent determined by the Secretary of the Interior to be feasible, an accurate compilation of the official opinions, published and unpublished, of the Solicitor of the Department of the Interior relating to Indian affairs rendered by the Solicitor prior to September 1, 1967, and to have such compilation printed as a Government publication at the Government Printing Office.

(b) With respect to the document entitled "Indian Affairs, Laws and Treaties" as revised and extended in accordance with paragraph (1) of subsection (a), and the compilation prepared in accordance with paragraph (3) of such subsection, the Secretary of the Interior shall take such action as may be necessary to keep such document and compilation current on an annual basis.

(c) There is authorized to be appropriated for carrying out the provisions of this title, with respect to the preparation but not including printing, such sum as may be necessary.

## TITLE VIII—FAIR HOUSING

POLICY

SEC. 801. It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

DEFINITIONS

SEC. 802. As used in this title—

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, or 806.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

EFFECTIVE DATES OF CERTAIN PROHIBITIONS

SEC. 803. (a) Subject to the provisions of subsection (b) and section 807, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 shall apply:

(1) Upon enactment of this title, to—

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to the date of enactment of this title;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to the date of enactment of this title: *Provided,* That nothing contained in subsection (B) and (C) of this subparagraph shall be applicable to dwellings solely by virute of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b).

(b) Nothing in section 204 (other than paragraph (c)) shall apply to—

(1) any single-family house sold or rented by an owner: *Provided,* That such private individual owner does not own more than three such single-family houses at any one time: *Provided further,* That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: *Provided further,* That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: *Provided further,* That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such

facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 804(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purposes of subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if—

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

SEC. 804. As made applicable by section 803 and except as exempted by sections 803(b) and 807, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.

DISCRIMINATION IN THE FINANCING OF HOUSING

SEC. 805. After December 31, 1968, it shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 803(b).

DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

SEC. 806. After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin.

EXEMPTION

SEC. 807. Nothing in this title shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this title prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

ADMINISTRATION

SEC. 808. (a) The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

(b) The Department of Housing and Urban Development shall be provided an additional Assistant Secretary. The Department of Housing and Urban Development Act (Public Law 89–174, 79 Stat. 667) is hereby amended by—

(1) striking the word "four," in section 4(a) of said Act (79 Stat. 668; 5 U.S.C. 624b (a)) and substituting therefor "five,"; and

(2) striking the word "six," in section 7 of said Act (79 Stat. 669; 5 U.S.C. 624(c)) and substituting therefor "seven."

(c) The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this title. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5362, and 7521 of title 5 of the United States Code. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) All executive departments and agencies shall administer their programs and activities relating to a housing and urban development in a manner affirmatively to further the purposes of this title and shall cooperate with the Secretary to further such purposes.

(e) The Secretary of Housing and Urban Development shall—

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies;

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices; and

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this title.

EDUCATION AND CONCILIATION

SEC. 809. Immediately after the enactment of this title the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this title. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this title and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of title 5 of the United States Code. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this title. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

ENFORCEMENT

SEC. 810. (a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Secretary. Complaints shall be in writing and shall contain such information and be in such form as the Secretary requires. Upon receipt of such a complaint the Secretary shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (c), the Secretary shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Secretary decides to resolve the complaint, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

(b) A complaint under subsection (a) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Secretary, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) Wherever a State or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this title, the Secretary shall notify the appropriate State or local agency of any complaint filed under this title which appears to constitute a violation of such State or local fair housing law, and the Secretary shall take no further action with respect to such complaint if the appropriate State or local law enforcement official has, within thirty days from the date the alleged offense has been brought to his attention, commenced proceedings in the matter, or, having done so, carries forward such proceedings with reasonable promptness. In no event shall the Secretary take further action unless he certifies that in his judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interests of justice require such action.

(d) If within thirty days after a complaint is filed with the Secretary or within thirty days after expiration of any period of reference under subsection (c), the Secretary has been unable to obtain voluntary compliance with this title, the person aggrieved may, within thirty days thereafter, commence a civil action in any appropriate United States district court, against the respondent named in the complaint, to enforce the rights granted or protected by this title, insofar as such rights relate to the subject of the complaint: *Provided*, That no such civil action may be brought in any United States district court if the person aggrieved has a judicial remedy under a State or local fair housing law which provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this title. Such actions may be brought without regard to the amount in controversy in any United States district court for the district in which the discriminatory housing practice is alleged to have occurred or be about to occur or in which the respondent resides or transacts business. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may, subject to the provisions of section 812, enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual, in either Federal or State court, pursuant to this section or section 812, shall come to trial the Secretary shall immediately terminate all efforts to obtain voluntary compliance.

INVESTIGATIONS; SUBPENAS; GIVING OF EVIDENCE

SEC. 811. (a) In conducting an investigation the Secretary shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: *Provided, however*, That the Secretary first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Secretary may issue subpenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

(b) Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary himself. Subpenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Witnesses summoned by subpena of the Secretary shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpena issued at the request of a respondent shall be paid by him.

(d) Within five days after service of a subpena upon any person, such person may petition the Secretary to revoke or modify the subpena. The Secretary shall grant the petition if he finds that the subpena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpena, the Secretary or other person at whose request it was issued may petition for its enforcement in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

(f) If any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpena or lawful order of the Secretary, shall be fined not more than $1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the Secretary, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the Secretary pursuant to his subpena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(g) The Attorney General shall conduct all litigation in which the Secretary participates as a party or as amicus pursuant to this Act.

ENFORCEMENT BY PRIVATE PERSONS

SEC. 812. (a) The rights granted by sections 803, 804, 805, and 806 may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate State or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: *Provided, however*, That the court shall continue such civil case brought pursuant to this section or section 810(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the Secretary or a State or local agency are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the Secretary or to the local or State agency and which practice forms the basis for the action in court: *And provided, however*, That any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this Act, and involved a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Act shall not be affected.

(b) Upon application by the plaintiff and in such circumstances as the court may deem just, a court of the United States in which a civil action under this section has been brought may appoint an attorney for the plaintiff and may authorize the commencement of a civil action upon proper showing without the payment of fees, costs, or security. A court of a State or subdivision thereof may do likewise to the extent not inconsistent with the law or procedures of the State or subdivision.

(c) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than $1,000 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff: *Provided*, That the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees.

ENFORCEMENT BY THE ATTORNEY GENERAL

SEC. 813. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, he may bring a civil action in any appropriate United States district court by filing with it a complaint setting forth the facts and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice or denial of rights, as he deems necessary to insure the full enjoyment of the rights granted by this title.

EXPEDITION OF PROCEEDINGS

SEC. 814. Any court in which a proceeding is instituted under section 812 or 813 of this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

EFFECT ON STATE LAWS

SEC. 815. Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this title shall be effective, that grants, guarantees, or protects the same rights as are granted by this title; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this title shall to that extent be invalid.

COOPERATION WITH STATE AND LOCAL AGENCIES ADMINISTERING FAIR HOUSING LAWS

SEC. 816. The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this title. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

INTERFERENCE, COERCION, OR INTIMIDATION

SEC. 817. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806. This section may be enforced by appropriate civil action.

APPROPRIATIONS

SEC. 818. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this title.

SEPARABILITY OF PROVISIONS

SEC. 819. If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of the title and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

TITLE IX

PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES

SEC. 901. Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(a) any person because of his race, color, religion or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(1) participating, without discrimination on account of race, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 901(a); or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging others to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 901(a), or participating lawfully in speech or peaceful assembly opposing and denial of the opportunity to so participate—

shall be fined not more than $1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than $10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

TITLE X—CIVIL OBEDIENCE

SHORT TITLE

SEC. 1001. This title may be cited as the "Civil Obedience Act of 1968".

CRIMINAL PENALTIES FOR ACTS COMMITTED IN CIVIL DISORDERS

SEC. 1002. (a) Title 18, United States Code, is amended by inserting after chapter 11 thereof the following new chapter:

"CHAPTER 12.—CIVIL DISORDERS

"Sec.
"231. Civil disorders.
"232. Definitions.
"233. Preemption.

"§ 231. Civil disorders

"(a) (1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function; or

"(2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

"(3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function—

"Shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(b) Nothing contained in this section shall make unlawful any act of any law enforcement officer which is performed in the lawful performance of his official duties.

"§ 232. Definitions

"For purposes of this chapter:

"(1) The term 'civil disorder' means any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual.

"(2) The term 'commerce' means commerce (A) between any State or the District of Columbia and any place outside thereof; (B) between points within any State or the District of Columbia, but through any place outside thereof; or (C) wholly within the District of Columbia.

"(3) The term 'federally protected function' means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof; and such term shall specifically include, but not be limited to, the collection, and distribution of the United States mails.

"(4) The term 'firearm' means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon.

"(5) The term 'explosive or incendiary device' means (A) dynamite and all other forms of high explosives, (B) any explosive bomb, grenade, missile, or similar device, and (C) any incendiary bomb or grenade, fire bomb, or similar device, including any device which (i) consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound, and (ii) can be carried or thrown by one individual acting alone.

"(6) The term 'fireman' means any member of a fire department (including a volunteer fire department) of any State, any political subdivision of a State, or the District of Columbia.

"(7) The term 'law enforcement officer' means any officer or employee of the United States, any State, any political subdivision of a State, or the District of Columbia, while engaged in the enforcement or prosecution of any of the criminal laws of the United States, a State, any political subdivision of a State, or the District of Columbia; and such term shall specifically include, but shall not be limited to, members of the National Guard, as defined in section 101(9) of title 10, United States Code, members of the organized militia of any State, or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, not included within the definition of National Guard as defined by such section 101(9), and members of the Armed Forces of the United States, while engaged in suppressing acts of violence or restoring law and order during a civil disorder.

"§ 233. Preemption

"Nothing contained in this chapter shall be construed as indicating an intent on the part of Congress to occupy the field in which any provisions of the chapter operate to the exclusion of State or local laws on the same subject matter, nor shall any provision of this chapter be construed to invalidate any provision of State law unless such provision is inconsistent with any of the purposes of this chapter or any provision thereof."

(b) The table of contents to "PART I.—CRIMES" of title 18, United States Code, is amended by inserting after

"11. Bribery and graft..... 211"

a new chapter reference as follows:

"12. Civil disorders..... 231".

## TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business from now on.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETING DURING SENATE SESSION ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT TO 11 A.M., MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m., Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, there will be no period for the transaction of morning business—despite the fact that we are adjourning today—when the Senate meets on Monday next. It is the intention of the joint leadership to proceed directly with the consideration of the pending measure.

It is our hope that every Senator will be present at 11 a.m., and no later, on Monday. It is our hope, also, that it will not be too long before we will come to a final vote on the pending bill—how long, remains to be seen.

But again I urge all Senators to be present from 11 o'clock on Monday next. No telegrams should be necessary to notify them. The RECORD speaks for itself. Senators have shown such excellent and outstanding interest in attendance

during the past week that I would anticipate this to continue during the next week.

When the pending business is disposed of, it is the intention to turn to the consideration of the supplemental appropriation bill—hopefully, on Monday.

## ORDER FOR RECOGNITION OF SENATOR STENNIS ON TUESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Tuesday next, at the conclusion of the transaction of routine morning business, the distinguished Senator from Mississippi [Mr. STENNIS] be recognized, so that at that time consideration of the resolution to be reported by the Ethics Committee—the report is now in its final stages, I understand—will become the pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. SPARKMAN. Mr. President, I notice that unanimous consent was given for the Committee on Foreign Relations to meet.

Mr. MANSFIELD. That is correct.

Mr. SPARKMAN. The Committee on Banking and Currency needs to meet at least during part of the morning.

Mr. KUCHEL. I regret to say that the instructions to the minority are to oppose all committee meetings while this matter is under consideration. An exception was made for the Committee on Foreign Relations, and I regret very much that objection would have to be made to the Committee on Banking and Currency meeting. However, the Senator from Alabama and I can discuss this later.

Mr. SPARKMAN. I should like to point this out. We have lost 3 days. We are working on the housing bill, and there is great urgency to get a housing program written. We have lost 3 days this week, and we will lose more time next week.

Mr. MANSFIELD. The Senate will meet at 11 a.m. on Monday.

## REPORT ON A RESOLUTION BY SELECT COMMITTEE ON STANDARDS AND CONDUCT

Mr. STENNIS. Mr. President, we will have copies of the proposed resolution from the Select Committee on Standards and Conduct, with a report thereon, on the desk of each Senator in his office not later than early on Monday morning next. There are only a few finishing touches to be made. We will have the material ready for the information of Senators, and the press will also be given copies at that time, together with a full explanation.

## DEATH OF JOSEPH W. MARTIN, JR.

Mr. BROOKE. Mr. President, the Commonwealth of Massachusetts, and indeed the entire Nation, is saddened by the death of one of our most distinguished citizens, Representative Joseph W. Martin, Jr.

Joe Martin affectionately known as "Mr. Speaker," was a man in the best tradition of New England: born the son of a blacksmith, he was a product of public schools, and acquired his further education while serving as a newspaper reporter. While still a young man in his twenties he stood for election to the State legislature where he served with distinction for 13 years before coming to Washington in 1924.

Few men in American history have had so distinguished a career in national politics. For 42 years Joe Martin represented the 10th District of Massachusetts in the House of Representatives. He served as Republican leader of the House for 20 years, and as Speaker for 4 years. He was chairman of five Republican national conventions—certainly an all-time record—and served as Republican national chairman.

The people of Massachusetts, regardless of party, are joined in deep sorrow at his passing, as for half a century they have been joined in deep gratitude for his faithful public service.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. JAVITS. Mr. President, when I became a Member of the House of Representatives after the election of 1946, Joe Martin became the Speaker of the House. Although he and I may have differed on various ideological points of view, he was a joy and a delight to a new Representative.

He was a great friend, an unfailing guide and teacher, one of the dearest men I ever knew, and one of the most patriotic and dedicated men to the highest interests of this country I have ever known.

Mr. President, in a very personal sense, and inasmuch as this is a memorial to a man I have always called Joe Martin for many years, when I came to the Senate, on the first day he came to see me sworn in in January 1957. It so happened that I was sworn in alone because of a situation which delayed my swearing in for a week. Speaker Martin stood with me in the back of this Chamber, put his arm around my shoulders, looked around and said, "JACK, this is a very hard place to get to. How very pleased I am that you are here."

We pay tribute to one of the most lovable persons I have ever known, one who was a great representative of the people and of the country; so I join my colleagues in paying tribute to Joe Martin.

In whatever Valhalla Joe Martin now resides he would get a special joy knowing that ED BROOKE has spoken the words of memorial for him in the Senate as a Senator from Massachusetts. Nothing would give him greater joy, and that would be typical of Joe Martin.

Mr. BROOKE. I thank the distinguished Senator from New York for his reference to our illustrious citizen and late Speaker of the House of Representatives, Joseph W. Martin.

## PERSONAL STATEMENT BY SENATOR EUGENE J. McCARTHY

Mr. McCARTHY. Mr. President, I wish to commend Members of the Senate for the debate on yesterday with respect to foreign policy. I wish particularly to thank those Members who spoke kind words and convictions not only with respect to me but also American principles.

To those of you who have not been on the campaign trail, I wish to give a brief report, especially in one sense.

Everywhere I campaign throughout New Hampshire, I uncover a deep sense of unease and discontent. It is not only the war in Vietnam or the crises in our cities, although they are part of it. It flows from a profound and growing conviction that something is wrong with the direction of American society; that since 1963 we have begun to lose much of the high purpose so brilliantly imparted to this Nation by President John F. Kennedy.

Of course, people want to stop this seemingly endless and futile war. They want to end lawlessness and violence in our cities—not simply by suppression but by helping reduce the misery and poverty of those whom we have neglected for so long. They want good schools for their children, an end to rising prices, and they are concerned that a Nation, once the most honored member of the family of nations, seemingly no longer cares for the decent respect of mankind.

And there is something more. A nation, like a man, has two sides to its character. So it is with America. There is the bright side of generosity, high purpose, and sacrifice. There is also, however, the dark side of selfishness and fearful greed; the inward turning wish to merely protect what we have. It is this grim aspect which responds to violence, bred in misery, with troops and tanks, and allows children to starve in Mississippi.

As political leaders, it is our responsibility to summon forth the more generous impulse of the American people. This also is what the people want, for my campaigning has reaffirmed the conviction that our people will look to leadership which will remind them of responsibilities as well as rights, of the need for sacrifice as well as the blessings of abundance; and which will substitute success in the pursuit of peace for failure in the pursuit of war.

Without such leadership, we will continue to dissipate our moral energies and blunt our purposes until we are unable to confront our most urgent needs—not because we lack the money or the power, but because we lack the will. This process is already beginning.

One small, but important sympton, is the nature of the New Hampshire campaign. My opposition—in print and on radio—is saying that a McCarthy victory would "be greeted with cheers in Hanoi"; that the "Communists are watching," and are warned against voting for "fuzzy thinking and surrender." My supporters are referred to as "peaceniks," and I myself am termed an "apostle of surrender," and an "appeaser." They said that my victory would

also be a victory for the Communists. All this has a clear implication that, at best, I am an unwitting agent of the Communist cause.

Yet in the calm of this Chamber, every man knows that my views are like those of many others here who also wish an end to escalation and an honorable peace. What is important, however, is not the falseness of these charges, but the fact that they are made at all and by Democrats in 1968. After all, the affront to me is trivial. I have been attacked before. The affront, however, to the democratic process and to free debate is severe and wounding. Can anyone here imagine such words being used to defend the administration of President Kennedy in any contest by any opponent? Of course not. That is how far we have come.

I have been in Congress since 1948 and I went through the time when charges of treason and surrender were common in America. I do not feel one can be indifferent to these charges. That kind of affront can be most severe and wounding.

Our fellow Americans are not by nature a people who wishes to oppress its fellow citizens and deny them their rights. They are not attracted to political insinuation, nor do they wish to be led by fear. Yet we see the growth of a leadership of fear. We are finding among ourselves fear of Communists and fear of Negroes; fear in every family of its economic security and jobs, and of its safety in the streets. More importantly, we are becoming afraid of the future.

These are not the impulses that drove a band of men across the seas to Jamestown and Plymouth Rock. Nor are they the impulses which moved the Democratic Party in its greatest moments of this century. It is time now, I believe, to substitute a leadership of hope for a leadership of fear. This is not simply what I want, or what most of us want. It is, I believe, the deepest hunger of the American soul.

Mr. President, I wish to express appreciation to the distinguished Senator from Idaho [Mr. CHURCH] and the distinguished Senator from South Dakota [Mr. MCGOVERN] for statements they made in my absence.

(At this point, Mr. BURDICK assumed the chair.)

## DEATH OF REAR ADM. DONALD J. RAMSEY

Mr. MILLER. Mr. President, many of us have been saddened by the death of retired Rear Adm. Donald J. Ramsey, a distinguished American and devoted member of the U.S. Navy.

I am pleased to say that he was a good friend of mine, and we wish to extend our deepest condolences to his dear wife and family.

Mr. President, I ask unanimous consent to have printed in the RECORD an article which was published in the Washington Evening Star of Monday, February 26, 1968, which recites some of Admiral Ramsey's background.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ADMIRAL RAMSEY, 65, DIES—IN THREE PACIFIC BATTLES

Retired Rear Adm. Donald J. Ramsey, 65, legislative counsel for the Silver Users Association here, died yesterday at Bethesda Naval Hospital after a heart attack. He lived at 11709 Admiral's Way, Potomac.

He was born in Methuen, Mass., and attended schools in Winchester and Wellesley, Mass., before entering the Naval Academy, from which he was graduated in 1924.

Adm. Ramsey served on the cruiser USS Raleigh and the Eagle 35, a patrol vessel in the Atlantic Fleet, until 1931, when he became an instructor in mathematics and ordnance for two years at the Naval Academy.

He served on the USS California in the Pacific Fleet until 1936. He was assigned next to the office of the Navy's judge advocate general and was graduated from George Washington University Law School in 1939.

AT MIDWAY AND SOLOMONS

Adm. Ramsey was commanding officer of the destroyer Hughes following his graduation until 1942, when he became commanding officer of Destroyer Division 3. During this time he served in the North Atlantic and in the Pacific, participating in the battles at Midway, Guadalcanal and Santa Cruz.

He was awarded the Silver Star for action at Guadalcanal and the Navy Cross in the battle of Santa Cruz.

He served as an aide to Adm. Arthur J. Hepburn in the investigation of the Battle of Savo Island. He later was assigned to the office of the judge advocate general as chief of the administrative law division and then as legislature counsel.

He was commander of the USS San Diego and the USS Pensacola, both cruisers during 1945 and 1946. He also participated in the atom bomb tests at Bikini.

AUTHORITY ON SILVER USE

From 1946 until his retirement in 1947, Adm. Ramsey served as assistant general inspector of the Atlantic Fleet. At the time of his retirement he became legislative counsel for the Silver Users Association, where he was considered an authority on the use of silver as a commodity. The group collects studies and disseminates information on silver to manufacturers of silver products.

He leaves his wife, the former Pamela C. Greig; three daughters by a previous marriage, Elizabeth Ramsey of Fremont, Calif., Mrs. J. P. H. Kern of San Carlos, Calif., and Mrs. William Cravens, Jr. of 611 S. Woodstock St., Arlington; two sisters, Mrs. J. Stark of Quincey, Mass., and Helen Ramsey of Sturgeon's Bay, Wis.; a brother, Allan, of Berwick, Me., and seven grandchildren.

## RELIGIOUS LIBERTY AWARD TO NEW YORK TIMES EDITOR

Mr. ERVIN. Mr. President, recently the Unitarian Universalist district of Metropolitan New York presented its Thomas Jefferson Award for Religious Liberty to Mr. John B. Oakes, editor of the editorial page of the New York Times. This honor was bestowed because of the strong and unswerving stand that the New York Times has taken in defense of the principles of religious freedom guaranteed by our Constitution.

In recent years our Nation has been involved in growing disputes as to the proper limits of church-state cooperation. Public programs involving aid to church-related institutions for worthwhile social ends have produced more and more religious discord in our country. These controversies are precisely what the framers of the Constitution and the Bill of Rights sought to avoid when they incorporated into our charter the revered principles of freedom of religion and separation of church and state. Thomas Jefferson, James Madison, and their associates knew all too well the danger to the body politic inherent in religious discord. They sought to insure that the controversies suffered by other societies would not occur in the United States.

We have been remarkably fortunate that our country has been spared such discord, but this is only because the people have been alert to oppose the first inroads on these principles whenever they have arisen. Unfortunately, we have not been sufficiently alert to the dangers in recent years. Our Nation has been misled by the argument that religious freedom is not endangered when constitutional principles are ignored in order to serve some worthwhile social end. Because of this, religious controversy has again entered political affairs in many parts of our country, and we must again affirm the principles first enunciated in 1787.

Mr. Oakes was given this award for the courageous and resolute stand which he and the New York Times have consistently taken whenever the principles of the first amendment are threatened. In the last year the New York Times, under his guidance, has continued to oppose any attempt to weaken the principles of religious freedom and separation of church and state on the State level as well as the National.

By speaking out on these issues, Mr. Oakes has performed a service on behalf of the entire country. Every time an individual raises his voice to oppose a threat to first amendment principles, that person protects not only his own religious freedom but also that of every other person.

I take this opportunity to commend the Unitarian Universalist district of Metropolitan New York for its excellent choice of Mr. Oakes as the recipient of its Thomas Jefferson Award for Religious Liberty, and to commend Mr. Oakes and the New York Times for their efforts on behalf of the first amendment.

## AUTHORIZATION FOR SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS IN THE ENGROSSMENT OF H.R. 2516

Mr. HART. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of H.R. 2516.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF AGREEMENTS SIGNED UNDER PUBLIC LAW 480 FOR USE OF FOREIGN CURRENCIES

A letter from the Administrator, Foreign Agricultural Service, U.S. Department of Agriculture, transmitting, pursuant to law,

a report of agreements signed under Public Law 480 in January and February 1968 for use of foreign currencies (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT OF CLAIMS SETTLEMENT BY DEPARTMENT OF THE ARMY

A letter from the Secretary, Department of the Army, transmitting, pursuant to law, a report concerning claims arising out of an explosion at the Lone Star Army Ordnance Plant, Texarkana, Tex., which were settled by the Department during the fiscal year 1968 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF DIRECTORS OF FEDERAL PRISON INDUSTRIES, INC.

A letter from the Commissioner, Federal Prison Industries, Inc., U.S. Department of Justice, transmitting, pursuant to law, the Annual Report of the Directors of Federal Prison Industries, Inc., for the fiscal year 1967 (with an accompanying report); to the Committee on the Judiciary.

PROPOSED LEGISLATION RELATING TO DUAL COMPENSATION PAID TO MEMBERS OF DISTRICT OF COLUMBIA COUNCIL

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend title 5, United States Code, relating to dual compensation, with respect to members of the District of Columbia Council (with accompanying papers); to the Committee on Post Office and Civil Service.

## PETITION

The PRESIDING OFFICER laid before the Senate the petition of Joseph David Logan, Jr., Attica, N.Y., praying for a redress of grievances, which was referred to the Committee on the Judiciary.

## EXECUTIVE REPORTS OF A COMMITTEE

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. BIBLE, from the Committee on the District of Columbia:

Margaret A. Haywood, of the District of Columbia, J. C. Turner, of the District of Columbia, and Joseph P. Yeldell, of the District of Columbia, to be members of the District of Columbia Council;

Austin L. Fickling, of the District of Columbia, to be associate judge for the District of Columbia Court of Appeals; William C. Pryor, of the District of Columbia, to be associate judge of the District of Columbia court of general sessions;

James A. Belson, of the District of Columbia, to be associate judge of the District of Columbia court of general sessions;

Joyce Hens Green, of the District of Columbia, to be associate judge for the District of Columbia court of general sessions, domestic relations branch; and

Alfred P. Love, for reappointment as a member of the District of Columbia Redevelopment Land Agency.

## BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and by unanimous consent, the second time, and referred as follows:

By Mr. ELLENDER (by request):

S. 3118. A bill to amend the Federal Crop Insurance Act, as amended; to the Committee on Agriculture and Forestry.

By Mr. JACKSON:

S. 3119. A bill to require that certain offices in the Department of the Interior and the Department of Agriculture be filled by appointment by the President by and with the advice and consent of the Senate; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. JACKSON when he introduced the above bill, which appear under a separate heading.)

By Mr. BREWSTER:

S. 3120. A bill for the relief of Apostolos Kapsalis; to the Committee on the Judiciary.

By Mr. KENNEDY of Massachusetts:

S. 3121. A bill for the relief of Biagio Tirrusa and his wife, Rosa Barbaro De Tirrusa, and his children, Jose Antonio Tirrusa and Gianfranco Tirrusa; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 3122. A bill to amend chapter 137, title 10, United States Code, to limit, and to provide more effective control over, the use of Government production equipment by private contractors under contracts entered into by the Department of Defense and certain other agencies, and for other purposes; to the Committee on Armed Services.

(See the remarks of Mr. PROXMIRE when he introduced the above bill, which appear under a separate heading.)

By Mr. LONG of Missouri:

S. 3123. A bill to establish a 2-year study of the office of administrative ombudsman; to the Committee on the Judiciary.

(See the remarks of Mr. LONG of Missouri when he introduced the above bill, which appear under a separate heading.)

By Mr. METCALF:

S. 3124. A bill to provide that annual increases in the quota of watches and watch movements which may be entered duty-free from the insular possessions shall be equally divided among the Virgin Islands, Guam, and American Samoa; to the Committee on Finance.

By Mr. METCALF (by request):

S. 3125. A bill to designate the lake formed by the waters impounded by the Libby Dam, Mont., as Lake Koocanusa; to the Committee on Interior and Insular Affairs.

By Mr. NELSON:

S. 3126. A bill to provide for the regulation of present and future surface and strip mining, for the conservation, acquisition, and reclamation of surface and strip mined areas, and for other purposes; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. NELSON when he introduced the above bill, which appear under a separate heading.)

By Mr. ERVIN (for himself, Mr. FONG, Mr. KUCHEL, Mr. JORDAN of North Carolina, Mr. MURPHY, and Mr. MILLER):

S.J. Res. 150. A joint resolution to designate the month of May 1968 as "National Arthritis Month"; to the Committee on the Judiciary.

(See the remarks of Mr. ERVIN when he introduced the above joint resolution, which appear under a separate heading.)

## S. 3119—INTRODUCTION OF BILL TO REQUIRE THAT CERTAIN OFFICES IN THE DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF AGRICULTURE BE FILLED BY APPOINTMENT BY THE PRESIDENT

Mr. JACKSON. Mr. President, I introduce, for appropriate reference, a bill providing for confirmation by the Senate of certain officers of the executive branch who exercise policymaking authority and jurisdiction over vast publicly owned resources of the United States.

These officers, with the exception of the Chief Forester in the Department of Agriculture, all serve in the Department of the Interior. They are charged with the responsibility for the administration of thousands of Federal employees and billions of dollars worth of property and natural resources belonging to the people of the United States. The authority exercised by the individuals chosen to fill these very important policymaking positions in the Federal Government extends from the trust territory on the edge of the Asiatic Continent to the Virgin Islands in the Carribbean Sea; from the national park areas in Florida to the vast public lands in Alaska.

The positions affected by this bill include an Assistant Secretary, Directors and Commissioners of important Bureaus, and Governors of territorial possessions. The persons who fill these positions exercise far-reaching jurisdiction over matters which have a profound impact on the national interest and affect every State and virtually every community in America. In addition, the policies pursued by the Governor of American Samoa and the High Commissioner of the Trust Territory of the Pacific Islands are periodically reviewed by the United Nations and, therefore, are matters of international significance.

Under the present laws relating to the confirmation of appointees to the policymaking and top-level administrative positions in the Department of the Interior, there are some striking inconsistencies which this bill would remove.

For example, of the six Assistant Secretaries in the Department, only five are subject to confirmation. The sixth, the Assistant Secretary for Administration, serves without the advice and consent of the Senate.

The Directors of the Bureau of Mines and Geological Survey are subject to confirmation. The Directors of the National Park Service and the Bureau of Outdoor Recreation, however, are not.

The Governors of Guam and the Virgin Islands are subject to confirmation. The Governor of American Samoa and the High Commissioner of the Trust Territory, however, are not.

Even more curious is the fact that the position of Director of the Office of Territories, which has responsibilities covering all the territories, is not subject to Senate confirmation.

I ask unanimous consent that a brief statement of the important positions in the Interior Department whose appointments are subject to Senate confirmation and those which are not, be set forth at this point in the RECORD. Under the listings of those which are not subject to Senate confirmation is information relative to the power and responsibilities of these offices.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statement is as follows:

POLICYMAKING OFFICERS IN THE DEPARTMENT OF THE INTERIOR WHOSE APPOINTMENT IS SUBJECT TO CONFIRMATION BY THE SENATE

1. Secretary.
2. Under Secretary.
3. Assistant Secretaries (five) other than Assistant Secretary for Administration.
4. Solicitor.
5. Director, Bureau of Mines.
6. Director, Geological Survey.

7. Commissioner, Fish and Wildlife Service.
8. Commissioner, Bureau of Indian Affairs.
9. Governor of the Virgin Islands.
10. Governor of Guam.

POLICYMAKING OFFICERS OF THE DEPARTMENT OF THE INTERIOR WHOSE APPOINTMENT IS NOT SUBJECT TO SENATE CONFIRMATION

1. Assistant Secretary for Administration: The Assistant Secretary for Administration discharges the duties of the Secretary with respect to all phases of administrative management including budget, finance and compliance, management research, personnel, procedure, property, audit, management operations security, emergency preparedness and many related activities. He exercises a great deal of responsibility with respect to the formulation and implementation of policy in the Department. There are five major offices under his control. These include: The Office of Management Operations, the Office of Survey and Review, the Office of Budget, the Office of Management Research, and the Office of Personnel Management.

2. Director of the Bureau of Land Management: The Bureau of Land Management is partially or totally responsible for the administration of mineral resources on about 800 million acres of land—approximately one-third of the area of the United States. Of this 800 million acres, the Bureau has exclusive jurisdiction for the management of lands and resources on some 477 million acres. The Bureau at the start of 1968 had 3,950 employees and received an appropriation of $55,753,000 for the fiscal year 1968.

3. Director of the National Park Service: The National Park Service at the start of 1968 had 7,343 employees and received an appropriation of $123,577,600 for fiscal year 1967. The Park Service's responsibilities involve the control and administration of approximately 25 million acres of land.

4. Director of the Bureau of Outdoor Recreation: This Bureau at the start of 1968 had 527 employees and received an appropriation of $123,380,000 for fiscal year 1968. The responsibilities of the Bureau include the administration of a program of financial grants to the states under the Land and Water Conservation Fund; an inventory evaluation of outdoor recreation needs in the United States; and the preparation of a comprehensive nationwide outdoor recreation plan.

5. Commissioner of the Bureau of Reclamation: The Bureau of Reclamation is charged with the administration of vast irrigation and reclamation projects on which the prosperity of whole regions of our country depend. The Commissioner is called upon to make a number of policy decisions that directly affect the life and well-being of many citizens. This Bureau had a budget for fiscal year 1968 of $317,635,000 and had 10,083 employees at the start of 1968.

6. Director of the Office of Territories: The Office of Territories is responsible for the administration of offshore areas stretching from the mid-Atlantic to the far Pacific and the South Seas. Subordinate officers of the office deal directly with representatives of foreign governments and with the United Nations. In fiscal year 1968 the Office of Territories received an appropriation of $51,980,772. The office had 78 U.S. employees at the start of 1968.

7. Governor of American Samoa.

8. High Commissioner of the Trust Territory of the Pacific.

In addition to the Interior Department positions noted above, this bill would make the Chief Forester of the Department of Agriculture subject to Senate confirmation. The Chief Forester, who is the head of the Forest Service, has responsibility for the administration of nearly 187 million acres of Federal forest lands in 44 states and Puerto Rico. These areas and their known resources are valued at some $7.6 billion.

Mr. JACKSON. Mr. President, either the removal of the inconsistencies I have noted or a consideration of the importance of these positions in influencing the directions in which government moves would be sufficient reason to pass this bill. There is still, however, a broader and more fundamental reason this bill should be enacted into law.

And it is primarily for this reason that I submit this bill. Historically, our form of government has been dedicated to the concept of checks and balances. One of the important manifestations of this concept is article II, section 2, of the U.S. Constitution, which sets forth the principle of "advice and consent of the Senate."

The bill I introduce today carries forward the concept of checks and balances by insuring that the people nominated to fill these important policymaking positions in our Government have the benefit to be gained from the "advice and consent of the Senate."

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3119) to require that certain offices in the Department of the Interior and the Department of Agriculture be filled by appointment by the President by and with the advice and consent of the Senate, introduced by Mr. JACKSON, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

## S. 3123—INTRODUCTION OF BILL TO ESTABLISH A PILOT OFFICE OF ADMINISTRATIVE OMBUDSMAN

Mr. LONG of Missouri. Mr. President, on March 7, 1967, I introduced a proposal, S. 1195, which would establish the Office of Administrative Ombudsman. The ombudsman suggested in that bill would have authority to investigate citizen complaints against four selected Federal agencies: the Social Security Administration, the Veterans' Administration, the Internal Revenue Service, and the Bureau of Prisons. Earlier in this session, I proposed an amendment to S. 1195 which would add the Selective Service System to the list of agencies covered.

S. 1195 might be considered as a vertical approach to the problem of handling citizen complaints. The ombudsman suggested in that bill could receive and investigate complaints from any and all citizens in respect to five Federal agencies. Its jurisdiction, therefore, is narrowly defined. If a citizen voiced a complaint against the Department of Commerce, for example, the ombudsman would be precluded from assisting the complainant—no matter how meritorious the complaint may be.

But this is not a shortcoming of S. 1195. It was intended to be done this way. Rather than introduce a bill so sweeping that it would bring all Federal agencies under the administrative ombudsman's purview, it was thought best that the bill be limited, on a trial basis, to several agencies which have very close contact with the public and which in the past have seemed to generate the most complaints from citizens.

Thus, the vertical approach taken by S. 1195 is one way of determining the desirability and feasibility of establishing a Federal ombudsman.

Today, I am suggesting another approach: a bill which would establish a regional Office of Administrative Ombudsman as a pilot project. This bill envisions a 2-year study on a regional basis. Broadly speaking, this might be considered a horizontal approach; the ombudsman established by this bill would have jurisdiction to investigate complaints against all Federal agencies. One of the most serious objections raised to creating the position of Federal ombudsman has been the problem of size: how can an ombudsman possibly handle all of the complaints which are raised across this Nation? For purposes of this study, to eliminate this objection, the ombudsman I am proposing would be authorized to receive complaints only from residents of one State.

This State would be the State of Missouri, and there are a number of reasons which, in my opinion, justify this selection. First, I am, after all, a Senator representing the citizens of the State of Missouri. Missouri is traditionally the "show me State," and I know our citizens will have to be convinced that this ombudsman really works. Second, in my opinion, the State of Missouri has the right size and the right makeup for this pilot project. We have agricultural production ranging from wheat to cotton. We have a number of Federal regional offices serving many other States in addition to Missouri. We have within our boundaries almost all of the Federal agencies with which the ombudsman would be concerned. We are at the crossroads of east and west, north and south. Missouri is in many ways an almost perfect cross section of America and in the subcommittee's opinion an excellent region for this 2-year pilot project.

I ask unanimous consent to insert, at this point in the RECORD, a list of those Federal agencies which do business in Missouri and the number of Federal employees who reside in the State of Missouri.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

*Paid civilian employment of the Federal Government located in Missouri, by agency, as of Dec. 13, 1966*

| | |
|---|---|
| Total, all agencies | 63,403 |
| Legislative branch: General Accounting Office (total) | 103 |
| Judicial branch, total | 119 |
| Executive branch, total | 63,181 |
| Executive Office of the President: Office of Economic Opportunity | 113 |
| Executive departments: | |
| State | 5 |
| Treasury | 2,596 |
| Defense, total | 21,717 |
| Army | 15,323 |
| Navy | 239 |
| Air Force | 5,298 |
| Other defense activities | 857 |

*Paid civilian employment of the Federal Government located in Missouri, by agency, as of Dec. 13, 1966*—Continued

| | |
|---|---|
| Executive branch—Continued | |
| Executive departments—Continued | |
| Justice | 713 |
| Post Office | 21,146 |
| Interior | 949 |
| Agriculture | 3,744 |
| Commerce | 604 |
| Labor | 183 |
| Health, Education, and Welfare | 3,200 |
| Housing and Urban Development | 152 |
| Independent Agencies: | |
| Atomic Energy Commission | 94 |
| Civil Aeronautics Board | 5 |
| Civil Service Commission | 186 |
| Equal Employment Opportunity Commission | 7 |
| Farm Credit Administration | 11 |
| Federal Aviation Agency | 1,183 |
| Federal Communications Commission | 9 |
| Federal Deposit Insurance Corporation | 90 |
| Federal Home Loan Bank Board | 14 |
| Federal Mediation and Conciliation Board | 24 |
| Federal Trade Commission | 12 |
| General Services Administration | 2,431 |
| Interstate Commerce Commission | 48 |
| National Aeronautics and Space Administration | 55 |
| National Labor Relations Board | 86 |
| National Mediation Board | 1 |
| Railroad Retirement Board | 27 |
| Securities and Exchange Commission | 3 |
| Selective Service System | 237 |
| Small Business Administration | 83 |
| Veterans' Administration | 3,453 |

Mr. LONG of Missouri. Mr. President, for these reasons, therefore, I have no hesitancy in selecting the State of Missouri for this trial project.

Mr. President, let me make one point crystal clear. For many years, I have been working with Federal employees and Federal agencies in Missouri. I am proud to say I have generally found these employees and their agencies most cooperative and helpful.

The 63,000 Missourians who serve in the U.S. Government are in most cases efficient, hardworking, and well trained. But I have found, no matter how well an agency is run, there are inevitabl complaints from citizens. I have found that whether in private industry or in government, where an organization is very large, there is bound to be some delay and redtape.

Confronted by large Federal agencies, citizens are often confused and afraid. The citizen who is shunted around from agency to agency can become bitter and disgusted with our "whole U.S. Government." The average citizen and the small businessman simply do not have the funds or the time to sort out some of the Federal tangles they get into.

We are proud of our Federal employees in Missouri, and we would far rather have a portion of the U.S. Government here in our State, where we can work with them day to day, rather than in Washington, D.C.

In the long run, the Missouri ombudsman, by working with Government officials, will do a great deal to help them improve their operations. He will point to better ways of eliminating the frustrations and anxiety so many people feel when dealing with the Government. He will help create more trust and faith in our federal system.

I continue to believe that if the Swedish concept of ombudsman can be transplanted to this country, it would improve the American system of government. We should at least give the concept a chance, and that is simply what this bill seeks to do.

The growing number of citizen complaints in this country must be answered. We in Congress, collectively, have been somewhat of an ombudsman. When the citizen has a gripe—legitimate or otherwise—against IRS, social security, or any other Federal agency, where does he take it—to his Congressman or Senator. And the Congressman or Senator is very effective in obtaining redress for the legitimate grievance. What generally happens when a Congressman or Senator intervenes between the citizen and the agency, however, is that the particular problem may be solved, but the situation creating similar problems remains the same.

That is why we need something more than just a complaint department. We also need an external body which, in addition to handling complaints, can spot trends in problem areas and even suggest remedial legislation where necessary.

Thus, the ombudsman would be an alternative place for filing citizens' grievances. It may be, as this study proceeds, that we will want to adopt the ombudsman system presently in operation in Great Britain. That ombudsman has authority to act upon only those complaints which are transmitted to him by the Members of Parliament.

It is for these reasons that I think it is time to give the ombudsman a trial. The ombudsman has been very successful in a number of foreign countries. In fact, in all of the foreign countries where the ombudsman system is in operation, some 80 to 90 percent of the complaints which the ombudsman receives turn out to be unfounded. Whether or not a similar percentage will exist here in the United States, we do not know; whether or not the ombudsman system will work in the United States, we also do not know. But I do think we should try it for at least a short period of time and study its success or failure before we discard the concept completely. After all, in those foreign countries which has the ombudsman system, all too often the citizen will only be satisfied when his grievance has been looked at by the ombudsman; the citizen has a rapport with the ombudsman for he trusts him.

Therefore, Mr. President, I introduce, for appropriate reference, a bill to establish a pilot Office of the Administrative Ombudsman.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3123) to establish a 2-year study of the Office of Administrative Ombudsman, introduced by Mr. LONG of Missouri, was received, read twice by its title, and referred to the Committee on the Judiciary.

## S. 3126—INTRODUCTION OF BILL ENTITLED "THE MINED LANDS CONSERVATION ACT OF 1968"

Mr. NELSON. Mr. President, among the many excellent conservation proposals that President Johnson has included in his conservation message, one is particularly noteworthy. The President proposes to do something to stop the ravishment of American land that results from strip mining. It is time for such action.

More than 2 years ago, I proposed a measure to put surface mining under Federal regulation. Now, I again urge that the Congress move to regulate this activity that is so destructive of other natural resources. In recent months the national press has carried several articles which show that unregulated or inadequately regulated strip mining blights not only the landscape but also the people who must live in the mined area. A most poignant story appeared in the January 12 issue of Life magazine and I ask unanimous consent that the text of that article be printed in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NELSON. I agree with the administration's contention that—because local mining conditions are so varied—each State should have the opportunity to regulate its own mining with standards at least equivalent to the Federal standards which will be established. To the extent that our States will undertake this responsibility, it should make the regulation of strip mining more effective and cheaper.

For the past year, I have been revising and expanding my first legislative proposal, and today I introduced for appropriate reference a truly comprehensive bill—the Mined Lands Conservation Act—to provide for the regulation of present and future strip mining and for the conservation, acquisition, and reclamation of surface and strip mined areas.

Title I of the bill requires the Secretary of the Interior and the Secretary of Agriculture after consultation with a national advisory committee to develop standards and reclamation requirements for previously strip-mined lands as well as for all future surface and strip-mining operations. Under this title, the States are encouraged to adapt standards and regulations of their own.

Title II authorizes the Secretary of Agriculture to enter into agreements with State and local governments to provide financial and technical assistance for the reclamation of strip- or surface-mined lands owned by those State and local governments. The Secretary of Agriculture is further authorized to pay up to 75 percent of the cost of this reclamation.

Title III authorizes both the Secretary of Agriculture and the Secretary of the Interior to make grants to State or local agencies and to other public or nonprofit agencies and institutions to develop improved reclamation and conservation practices for the utilization and development of strip-mined lands

and to develop improved mining techniques.

Title IV authorizes the Secretary of Agriculture to provide technical assistance and cost sharing for the conservation and reclamation of privately owned strip-mined lands.

Title V authorizes the Secretary of the Interior to acquire certain strip-mined lands for the purpose of their reclamation and in order to establish an effective continuing conservation, land use, and management program.

We have been hampered in our efforts at the Federal level to provide effective leadership in the regulation of strip-mining operations and the reclamation of strip-mined lands because the responsibilities for these programs fall into two different agencies; namely, the Department of the Interior and the Department of Agriculture. This bill attempts to resolve the differences which exist between these agencies and assign to each agency those responsibilities which fall within their respective jurisdictions.

It has been estimated that in 1965 approximately 3.2 million acres of land had been disturbed by surface mining; it is difficult to say how many more acres have been affected since then although I am confident that many hundreds of thousands of acres are involved.

Strip mining has many serious, harmful effects. It destroys the land surface, increases erosion, pollutes rivers and streams, destroys natural beauty, and threatens public safety. Many thousands of acres of land have been idled by strip mining; they should be reclaimed and put back into use for forestry, farming, fish and game habitat, and for recreation.

This bill will give us the means to control future strip-mining operations in order to halt this senseless destruction of our land resources and to reclaim those lands which have been left barren by previous strip-mining operations.

Mr. President, I ask unanimous consent that the text of the Mined Lands Conservation Act be printed in the RECORD following my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3126) to provide for the regulation of present and future surface and strip mining, for the conservation, acquisition, and reclamation of surface and strip mined areas, and for other purposes, introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 3126

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Mined Lands Conservation Act".

SEC. 2. (a) The Congress finds and declares that the mining of minerals by the surface or strip method, both past and present, (1) destroys natural beauty, (2) damages the terrain for an indefinite period, (3) causes erosion of the soil, (4) contributes to water pollution, (5) adversely affects commercial and industrial development, (6) damages real property, (7) destroys forests, wildlife habitat, and other natural resources, (8) menaces the public health and safety, (9) cannot be made subject to uniform conservation requirements because physical and chemical conditions on spoil areas and spoil-bank characteristics can differ from State to State, county to county, bank to bank, and even from spot to spot on a particular bank, and (10) creates, because of the diversity of State regulations, or the lack thereof, competitive disadvantages for firms operating in a given market area and thereby interferes with the orderly and fair marketing of minerals in commerce. The Congress further finds that these results are detrimental to the economy of the Nation.

(b) It is therefore the purpose of this Act to provide for participation by the Federal Government with State and local governments, private individuals, and other interested parties in a long-range, comprehensive program to reclaim lands and waters damaged by surface and strip mining, to promote an effective continuing conservation land-use and management program, and to prevent further detriment to the Nation from such mining operations through—

(1) the establishment of criteria and standards for the reclamation, conservation and protection of surface and strip mined areas;

(2) the encouragement of the States to enact, or revise, and enforce laws, rules and regulations for the regulation of future surface and strip mining operations in accordance with criteria and standards at least equivalent to the criteria and standards established pursuant to this Act;

(3) financial aid to provide for research and development, and technical advisory assistance, and the installation of demonstration projects;

(4) cooperative programs with State and other governmental agencies to provide Federal assistance for the reclamation and conservation of publicly and privately-owned surface and strip mined lands;

(5) the acquisition of surface and strip mined lands where necessary in the public interest to achieve their reclamation and conservation;

(6) the promotion of public recreation, flood control, soil erosion control, water pollution control, forestry, agriculture, restoration and preservation of natural beauty, enhancement of fish and wildlife habitat, and other natural resource values, and the public health and safety; and

(7) the elimination of competitive disadvantages for firms operating in a given market area which interfere with the orderly and fair marketing of minerals in commerce.

SEC. 3. For the purposes of this Act:

(a) The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture;

(b) The terms "surface mining" and "strip mining" are interchangeable, and mean the mining of minerals after complete removal of the surface or overburden above the deposit to be mined in a series of rows or strips, and include "auger mining" when conducted in conjunction with such mining;

(c) The term "overburden" means the earth, rock, and other materials which lie above a natural mineral deposit;

(d) The term "spoil" means all overburden material removed from over the mineral after it is either deposited into the area from which the mineral has been removed, or deposited on undisturbed land;

(e) The term "spoil bank" means the material of whatever nature removed and deposited on the surface so that the underlying mineral may be recovered;

(f) The term "stripping pit" means any trench, cut, hole, or pit formed by removal of the surface or mineral as a result of surface or strip mining;

(g) The terms "person" or "operator" are interchangeable and mean person, partnership, association, corporation, or subsidiary of a corporation which owns, leases, or otherwise controls the use of land on which surface or strip mining is conducted, which is engaged in the mining of minerals as a principal, and which is or becomes the owner of the minerals recovered as a result of such mining, and includes any agent thereof charged with the responsibility for the operation of such mine;

(h) The term "mine" means (1) an area of land from which minerals are extracted in nonliquid form, (2) private ways and roads appurtenant to such area, (3) land, excavations, and workings, structures, facilities, equipment, machines, tools, or other property, on the surface, used in the work of extracting such minerals from their natural deposits in nonliquid form, and (4) the area of land covered by spoil;

(i) The term "reclamation" means the reconditioning or restoration, when appropriate, of the area of land affected by surface or strip mining operations and such contiguous lands as may be necessary for an effective continuing use and management program, under a plan approved by the Secretaries;

(j) The term "commerce" means trade, traffic, commerce, transportation, or communication between any State, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States and any other place outside the respective boundaries thereof, or wholly within the District of Columbia or any territory or possession of the United States, or between points in the same State, if passing through any point outside the boundaries thereof;

(k) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States;

(l) The term "area of land affected" means the area of land from which the overburden is removed, except that in stripping pits not more than one hundred feet in depth the area shall include the area occupied by the spoil banks; it also includes all lands affected by roads constructed to gain access and to haul minerals; and

(m) The term "operation" means all of the premises, facilities, roads, and equipment used in the process of producing minerals from a designated surface or strip mine area.

SEC. 4. Each surface or strip mine the products of which enter commerce, or the operations of which affect commerce, shall be subject to this Act.

SEC. 5. This Act shall be administered by the Secretary of Agriculture and the Secretary of the Interior as hereinafter provided. The Secretaries shall cooperate to the fullest extent practicable with each other and with other departments, agencies, and independent establishments of the Federal Government, with State and local governments and agencies, with interstate agencies, and with individuals or organizations. The Secretaries may request from any other Federal department or agency any information, data, advice, or assistance which they may need and which can reasonably be furnished, and such department or agency is authorized to expend its own funds with or without reimbursement. The Secretaries may also request the advice of State and local agencies and persons qualified by experience or affiliation to present the viewpoint of persons or operators of surface or strip mines, and of persons similarly qualified to present the viewpoint of groups interested in soil, water, wildlife, plant, recreation, and other resources.

SEC. 6. (a) The President shall establish a national advisory committee to advise the Secretary of Agriculture and the Secretary of the Interior in the development or revision of standards and reclamation requirements as required by section 101 of Title I of this Act, and in such other matters as the Secretaries may request. The national advisory committee shall include among its members an equal number of persons qualified by experience or affiliation to represent the viewpoint of persons or operators of

surface and strip mines, and of persons similarly qualified to represent the viewpoint of other interested groups, Federal, State, and local agencies. The President shall designate the chairman of the committee.

(b) The Secretary of Agriculture and the Secretary of the Interior, if they deem it desirable, may establish regional advisory committees to assist them and the national advisory committee. Each such regional committee shall consist of an equal number of persons qualified by experience or affiliation to represent the viewpoint of surface and strip mine operators and other interested groups, Federal, State, and local agencies.

(c)(1) Members appointed to such national advisory committee or regional advisory committees from private life shall each receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of any such committee. All other members of any such committee shall serve without compensation.

(2) All members of any such committee shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of any such committee.

TITLE I—STANDARDS, RECLAMATION REQUIREMENTS, AND CRITERIA FOR THE PROTECTION AND MANAGEMENT OF STRIP AND SURFACE MINED AREAS

SEC. 101. (a) The Secretary of Agriculture and the Secretary of the Interior shall develop, or revise, after consultation with the national advisory committee appointed pursuant to section 6(a) of this Act, (1) Federal standards and reclamation requirements for the reclamation, conservation, protection, and management of previously surface and strip mined areas of private, State, and Federally owned or controlled lands and waters, (2) Federal standards, and mining and reclamation requirements for the administration and regulation of all future surface and strip mining operations in the United States, and (3) criteria and priorities for the selection of projects and programs for affected areas of land and water in need of reclamation in those States which are eligible for assistance under the provisions of titles II, III, IV, or V of this Act.

(b) In establishing Federal standards, and mining and reclamation requirements for the administration and regulation of future strip and surface mining operations in the United States, the Secretaries shall consider requirements which will reasonably assure the attainment of the following objectives:

(1) The standards shall include, but not be limited to, grading, drainage, backfilling, plantings, revegetation, and any other measures or practices deemed by the Secretaries, after consultation with appropriate advisory committees, to be necessary to carry out the purposes of this Act.

(2) No person shall be permitted to commence operations to mine by strip or surface methods without first securing a permit or license from the Secretaries.

(3) Adequate law enforcement procedures shall be provided.

(4) The posting of an appropriate performance bond shall be required, forfeiture of which may automatically involve denial of future mining permits or licenses.

(5) Surface and strip mining operations and reclamation procedures shall be required to be preplanned, and approved by the Secretaries prior to issuance of a permit or license.

(6) The penalties provided herein shall apply for mining by strip or surface methods without a license or permit, and for willful refusal or failure to comply with the law, approved regulations, or the orders of a duly authorized authority.

(7) If warranted, the Secretaries may prohibit strip and surface mining in areas where reclamation is considered unfeasible because of physical considerations, such as ground-surface slope, but not limited thereto.

(8) Reclamation work shall be required to be integrated into the mining cycle, and appropriate time limits shall be established for the completion of reclamation.

(9) Periodic reports by the operator on the progress, methods, and results of reclamation efforts shall be required.

(10) Provision shall be made for the reporting and evaluation by the Secretaries of environmental changes in active and dormant strip and surface mining areas in order to provide data upon which the effectiveness of the reclamation requirements and their enforcement may be evaluated.

SEC. 102. (a) The Secretary of Agriculture and the Secretary of the Interior, after consultation with the national advisory committee established pursuant to section 6(a) of this Act, shall publish in the Federal Register rules, regulations, model standards, and reclamation requirements promulgated by them pursuant to section 101.

(b) The provisions of section 553 of title 5, United States Code, shall be applicable to the rules, regulations, model standards, and reclamation requirements promulgated pursuant to this section.

(c) Any person or operator whose application for a license or permit has been denied by the Secretaries, or whose bond has been ordered forfeited by the Secretaries, or who has otherwise been aggrieved by an action of the Secretaries pursuant to the provisions of this Act, may appeal to the Secretaries for annulment or revision of such order or action, and the Secretaries shall issue regulations for such appeals which shall include due notice and opportunity for a hearing.

(d) Any final order made by the Secretaries on appeal shall be subject to judicial review by the United States court of appeals for the circuit in which the mine affected is located, upon the filing in such court of a notice of appeal by the operator aggrieved by such final order within twenty days from the date of the making of such final order.

(e) The appellant shall forthwith send to the Secretaries by registered mail or by certified mail a copy of such notice of appeal. Upon receipt of such copy of a notice of appeal the Secretaries shall promptly certify and file in such court a complete transcript of the record upon which the order complained of was made. The costs of such transcript shall be paid by the appellant.

(f) The court shall hear such appeal on the record made before the Secretaries, and shall permit argument, oral or written, or both, by both parties.

(g) Upon such conditions as may be required, and to the extent necessary to prevent irreparable injury, the United States court of appeals may, after due notice to and hearing of the parties to the appeal, issue all necessary and appropriate process to postpone the effective date of the final order of the Secretaries, or to grant such other relief as may be appropriate pending final determination of the appeal.

(h) The United States court of appeals may affirm, annul, or revise the final order of the Secretaries, or it may remand the proceedings to the Secretaries for such further action as it directs. The findings of fact by the Secretaries, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(i) Following adoption of rules and regulations by the Secretaries pursuant to the provisions of this section any person or operator who willfully fails or refuses to comply with such regulations shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine of not less than $5,000 nor more than $10,000, or undergo imprisonment not exceeding six months, or both. Such fine shall be payable to the Secretaries, who shall credit it to the reclamation fund established under title VI of this Act.

SEC. 103. (a) Any State which, at any time, desires to secure the benefits of the financial assistance provided in titles II and III of this Act, and to develop and enforce standards, and mining and reclamation requirements for the administration and regulation of future mining operations by strip or surface methods within such State, shall submit to the Secretaries a State plan for the development of such standards and requirements and their enforcement.

(b) The Secretaries shall approve the plan submitted by a State under subsection (a) of this section, or any modification thereof, if such plan—

(1) designates the State agency submitting such plan as the sole agency responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of standards and reclamation requirements for regulating surface and strip mining, and for the conservation and reclamation of surface and strip mining areas in mines in the State which are or will be substantially as effective for such purposes as the standards and reclamation requirements which the Secretaries have established pursuant to this Act, and which provide for inspection at least annually of all such mines,

(3) contains assurances that such agency has, or will have, the legal authority and qualified personnel necessary for the enforcement of such standards and reclamation requirements,

(4) gives assurances that such State will devote adequate funds to the administration and enforcement of such standards and reclamation requirements,

(5) provides that the State agency will make such reports to the Secretaries in such form and containing such information as the Secretaries shall from time to time require.

(c) The Secretaries shall, on the basis of reports submitted by the State agency and his own inspection of mines, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretaries find, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect.

(d)(1) If any State is dissatisfied with the Secretaries' final action with respect to the approval of its State plan submitted under subsection (a) of this section, or with his final action under the second sentence of subsection (c) of this section, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted to the Secretaries by the clerk of the court. The Secretaries thereupon shall file in the court the record of the proceedings on which they based their action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretaries, if supported by substantial evidence on the record considered as a whole, shall be conclusive; but the court for good cause shown may remand the case to the Secretaries to take further evidence, and the Secretaries may thereupon make new or modified findings of fact and may modify their previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretaries or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon

certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) The provisions of sections 101 and 102 pertaining to the Federal standards and mining and reclamation requirements for the administration and regulation of future mining operations by strip or surface method shall not be applicable in any State in which there is a State plan approved under subsection (b) of this section.

SEC. 104. The Secretaries are authorized at any time to cause to be made in a surface or strip mine or previously surfaced or strip mined area such inspections and investigations as they shall deem necessary for the purpose of determining compliance with applicable rules, regulations, standards, and reclamation requirements.

SEC. 105. For the purpose of making any inspection or investigation authorized by this Act, authorized representatives of the Secretaries shall be entitled to admission to, and shall have the right of entry upon or through, any strip or surface mine or previously strip or surface mined area.

TITLE II—RECLAMATION AND CONSERVATION OF SURFACE AND STRIP MINED LANDS OWNED BY STATE AND LOCAL GOVERNMENTS IN THE UNITED STATES

SEC. 201. It is the purpose of this title to facilitate the reclamation and conservation of lands owned by State and local governments that have been adversely affected by strip and surface mining operations and have not been reclaimed prior to the date of enactment of this Act to a level commensurate with the criteria and standards established pursuant to the provisions of title I of this Act, by providing authority to the Secretary of Agriculture to enter into agreements with the States and local governments to provide financial and other assistance for their reclamation: *Provided,* That when the intended use of the lands to be reclaimed is for parks or fish and wildlife, the Secretary of Agriculture shall enter into agreements respecting such lands only after consultation with the Secretary of the Interior.

SEC. 202. (a) (1) To carry out the purpose of this title, the Secretary of Agriculture is authorized to enter into agreements with the various States and local bodies of government for the conservation and reclamation of surface and strip mined lands presently owned or hereafter acquired by them.

(2) Each such agreement shall describe (A) the actions to be taken by the Secretary of Agriculture and by the State or local body of governments, (B) the estimated cost of these actions, (C) the public benefits expected to be derived, including but not limited to the benefits to the economy of the State or local area, abatement or alleviation of land and water pollution, public recreation, fish and wildlife, and public health and safety, and (D) the share of the costs to be borne by the Federal Government and by the State or local body of government: *Provided,* That, notwithstanding any other provision of law, the Federal share of the cost shall not exceed the direct identifiable benefits which the Secretary of Agriculture determines will accrue to the public, and shall not in any event exceed 75 per centum of such cost: *Provided further,* That the share of the State or local body of government shall not consist of funds granted under any other Federal program, and (E) such other terms and conditions as the Secretary of Agriculture deems desirable.

(b) The Secretary of Agriculture, in his discretion, may require as a part of any agreement under this section that adequate provision be made for access to and use by the public of lands reclaimed under the provisions of this title.

(c) Each agreement entered into under this section shall contain a reasonable assurance by the State or local body of government that the reclaimed lands which are devoted to public use will be adequately maintained.

SEC. 203. Whenever the Secretary of Agriculture, after reasonable notice and opportunity for hearing, determines that there is a failure to expend funds in accordance with the terms and conditions governing the agreement for approved projects, he shall notify the State that further payments will not be made to the State from appropriations under this Act until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Secretary of Agriculture shall withhold any such payment to such State.

SEC. 204. The programs authorized to be assisted pursuant to this title shall be completed not later than January 1, 1988.

TITLE III—GRANTS TO STATES AND LOCAL AGENCIES AND OTHERS TO PROVIDE ASSISTANCE TO PROGRAMS OF RESEARCH AND DEVELOPMENT AND TECHNICAL ADVISORY ASSISTANCE

SEC. 301. It is the purpose of this title to facilitate the reclamation and conservation of lands and waters adversely affected by surface and strip mining operations by authorizing the Secretary of Agriculture and the Secretary of the Interior to make grants to the States, local governments, and others to be utilized in programs of research and development and in rendering technical advisory assistance.

SEC. 302. (a) The Secretary of Agriculture is authorized to make grants to States or local agencies and other public nonprofit agencies and institutions (including State or private universities), for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved reclamation and conservation practices for the utilization and development of surface and strip mined lands, and for the development, preparation, and maintenance of a State program commensurate with the criteria and standards adopted pursuant to title I of this Act for the conservation, utilization, and development of surface and strip mined lands, and for rendering technical assistance to States and mining operators on these subjects.

(b) The Secretary of the Interior is authorized to make grants to States or local agencies and other public or nonprofit agencies and institutions (including State or private universities), for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved mining techniques, for preparing and maintaining a continuing inventory of surface and strip mined areas and active mining operations on these subjects.

SEC. 303. (a) Any State or local agency, or institution, desiring financial assistance under this title shall submit a proposal to the appropriate Secretary in such form and manner as he shall prescribe, and payments may be made only for those projects or programs approved by him.

(b) The appropriate Secretary may make payments from time to time in keeping with the rate of progress toward satisfactory completion of individual projects or the implementation of approved programs.

(c) No project or program to be assisted under the provisions of this title may be approved unless the State in which the project or program is to be undertaken has adopted State laws which meet the standards for the mining, reclamation, conservation, protection, and management of surface and strip mined lands established by the Secretaries pursuant to sections 101 and 102 of this Act, except in those instances where the appropriate Secretary determines that no surface or strip mining occurs within the State which produces a significant detrimental effect upon the local environment.

SEC. 304. Sums appropriated or otherwise available for State projects and programs under this title shall be apportioned among the eligible States by the appropriate Secretary, whose determination shall be final. In determining the apportionment among such States the appropriate Secretary shall consider, among other things, the financial and administrative resources available to the State to undertake projects of the type authorized by this title, and the nature and extent of problems and adverse conditions brought about by surface and strip mining operations in the individual States most in need of solution within the individual States.

SEC. 305. The programs authorized to be assisted by this title shall be completed not later than January 1, 1988.

TITLE IV—RECLAMATION AND CONSERVATION OF PREVIOUSLY MINED LANDS OWNED BY PRIVATE INDIVIDUALS

SEC. 401. It is the purpose of this title to facilitate the reclamation and conservation of privately owned lands and water adversely affected by surface and strip mining operations and not reclaimed prior to the enactment of this Act to a level commensurate with the criteria and standards established pursuant to the provisions of title I of this Act, by authorizing the Secretary of Agriculture to provide assistance to States, their political subdivisions, private organizations and others for the reclamation and rehabilitation of such areas.

SEC. 402. (a) To carry out the purposes of this title the Secretary of Agriculture is authorized to:

(1) provide, upon the request of States, their political subdivision, or legally qualified local agencies, technical assistance for developing project plans for the reclamation and rehabilitation of lands which were not reclaimed prior to the date of this Act to a level commensurate with the criteria and standards adopted pursuant to title I of this Act, and were not at the time they were mined subject to any legal requirements for their reclamation to a level commensurate with such criteria and standards; and

(2) cooperate and enter into agreements with, and to furnish financial and other aid to any agency, governmental or otherwise, or any person for the purpose of carrying out any project plan that has been approved by the Secretary of Agriculture and the cooperating State, soil and water conservation district, or other political subdivision or legally qualified local agency, subject to such conditions as may be prescribed by the Secretary of Agriculture.

(b) The Secretary of Agriculture may require as a condition to the furnishing of assistance hereunder to any landowner that the landowner shall:

(1) Enter into an agreement for a period of not to exceed ten years providing for the installation and maintenance of the needed reclamation works or measures;

(2) Install, cause to be installed, or permit the installation of the needed reclamation works or measures in accordance with technical specifications as approved by the Secretary; and

(3) Provide assurances satisfactory to the Secretary that such reclaimed and rehabilitated lands will be adequately protected against damages resulting from future surface mining operations.

SEC. 404. The financial contribution of the Federal Government toward the land treatment and construction costs for the reclamation and rehabilitation of lands in an approved project under this title shall not exceed 75 per centum of the total of such costs thereof.

SEC. 405. (a) Each project plan shall (1) describe the nature of the project and the actions to be taken by each of the public and private parties, (2) describe the public benefits expected to be derived, (3) specify the share of the costs to be borne by the Federal Government and by the other participating parties, and (4) such other terms and conditions as are deemed necessary to protect the public interests.

(b) The Secretary of Agriculture, in his discretion, may provide in the agreements with landowners that the work to be done

under the project plan may be contracted for or performed by the owner of the land involved, subject to rules and regulations adopted by the Secretary of Agriculture.

SEC. 406. The programs authorized by this title shall be completed not later than January 1, 1988.

TITLE V—ACQUISITION OF LAND AND THE RECLAMATION AND CONSERVATION OF PREVIOUSLY SURFACE OR STRIP MINED LANDS

SEC. 501. In order to facilitate the reclamation, conservation, protection and management of lands that have been affected by surface mining operations and not reclaimed prior to enactment of this Act to a level commensurate with the criteria and standards adopted pursuant to title I of this Act, the Secretary of the Interior is authorized to acquire by donation, exchange, or purchase any such surface or strip mined lands or interests therein and such contiguous lands as may be necessary for an effective continuing conservation land use and management program.

SEC. 502. (a) The authority of the Secretary of the Interior to acquire lands, as provided in this title, may be exercised only when he determines that:

(1) The land is located within or adjacent to the boundaries of an established Federal unit and which, because of conditions prevailing thereon, are damaging other lands and waters inside or outside such Federal unit; and should be reclaimed to a level commensurate with the criteria and standards adopted pursuant to title I of this Act;

(2) The land is within the boundaries of an approved project provided for in title IV of this Act and that:

(A) The owners of the land are unwilling or unable to join with the other landowners in this project area in an agreement to reclaim jointly the project lands;

(B) The owners of 75 per centum or more of the lands within the project have entered into a joint agreement with the Secretary of Agriculture to reclaim surface mined lands pursuant to some other title of this Act.

(3) No State or local governmental body desires to acquire the land in furtherance of a project to be undertaken pursuant to some other title of this Act; and

(4) The Federal Government should acquire the land in order to accomplish the purposes of this Act.

(b) With respect to lands acquired by the Secretary of the Interior pursuant to this title which are located adjacent to national forest lands, the Secretary of the Interior is authorized to transfer jurisdiction over such lands to the Secretary of Agriculture for administration by him in the same manner and to the same extent as are other lands within the national forest system.

SEC. 503. In the case of acquisition by purchase of property pursuant to this title, the property owner shall, unless he offers to sell at a lower price, be paid the fair market value as determined by the Secretary of the Interior. Owners of improved property acquired under the provisions of this title may reserve for themselves and their successors or assigns a right of use and occupancy for noncommercial residential purposes, as hereinafter provided, appropriate portions of the property not required for reclamation measures for a definite term not to exceed 25 years or, in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, whichever is the later. The owner shall elect the term to be reserved. In such cases the owner of the property shall be paid the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner: *Provided,* That such use and occupancy shall be subject to such general rules and regulations as may be established by the Secretary of the Interior.

SEC. 504. (a) The Secretary of the Interior shall conserve, reclaim, protect, improve, develop, and administer any property or interest therein acquired pursuant to this title and construct such structures thereon as may be necessary to adapt it to beneficial public use.

(b) Except to the extent otherwise herein provided, lands acquired for the purpose of this title within established Federal units shall become part of such unit and shall be administered in accordance with the laws and regulations applicable thereto.

(c) With respect to lands acquired under this title other than those within established Federal units, the Secretary of the Interior may, under such terms and conditions as he deems will best accomplish an effective continuing conservation land use and management program, sell, exchange, lease, or otherwise dispose of such property. When, in the judgment of the Secretary, reclamation of such property has been substantially accomplished, and such property should be administered by another Federal or State agency under conditions of use and administration which will best serve the purpose of a conservation and land use program, the Secretary is authorized to transfer such property to any such agencies.

(d) With respect to any land or interest therein acquired for the purposes of this title, the Secretary may make dedications or grants for any public purpose, and grant licenses and easements upon such terms as he deems reasonable.

SEC. 505. Each Federal department and independent Federal agency head shall develop and carry out a program for the reclamation and conservation of Federally owned lands under his jurisdiction that have been affected by surface and strip mining operations and are not reclaimed in accordance with the criteria and standards adopted pursuant to title I of this Act.

SEC. 506. The programs authorized by this title shall be completed not later than January 1, 1988.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act.

SEC. 602. All appropriations for the appropriations for the purposes of this Act, all moneys received under this Act from the sale or lease of federally owned reclaimed land, repayment and interest costs by owners of nonfederally owned reclaimed land, all donations to the Federal Government for the purposes of this Act, all moneys received from fines or forfeitures, and other revenues resulting from the operations of the continuing conservation land use and management program shall be credited to a special fund in the Treasury to be known as the "Mined Lands Reclamation Revolving Fund". Such moneys shall be available, without fiscal year limitation, for carrying out the provisions of this Act, including purchase and reclamation of land.

SEC. 603. If any provision of this Act, or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act, and the application of such provision or circumstances, shall not be affected thereby.

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EXHIBIT 1

THESE MURDERED OLD MOUNTAINS

(By David Nevin)

The sun was bright and warm the day the bulldozers came around the hill and ruined Cecil Combs. It was a simple matter and entirely legal. The men on the bulldozers were miners and they held title to the coal that lies in thick, rich seams with edges cropping out on the sides of the mountains. Combs could hear the coughing of the machines in the quiet mountain air long before they rounded the ridge that soars to the sky above his farm. To reach their coal, the miners shredded the rock with explosives and ripped the soil with the bulldozer blades and poured it all down on the croplands below. They destroyed the land, perhaps for a century to come, and in the process they destroyed Cecil Combs as well.

All that Combs had ever owned was his 30-acre farm on the steep slopes above Pigeon Roost Creek, which empties into Troublesome Creek in the Cumberland Mountains of eastern Kentucky. This is a strange and beautiful country with its tight folds of mountains curled one within the other like a maze, each separated by a deep hollow in which the people cluster in tight and isolated communities of hillside farms. They orient not to roads but to the noisy little streams in the bottom of each hollow that babble away the violent rainfall. Once, the water in these creeks was clear and game fish flashed in the sun and deer paused to drink. But that was long ago. The good times are gone now and the land is ravished.

The disaster visited upon it and upon Cecil Combs is called strip mining. Coal seams range throughout these mountains. Decades ago, when mining was entirely a matter of men going underground and digging, the owners of the property sold—often for as little as 50¢ an acre—the right to mine whatever minerals it might contain, which meant coal. Now the time has come to take the coal, but in this day of new earth-moving machines that range from powerful bulldozers in the mountains to gigantic shovels in flatter country, it is much less expensive to take it from the top.

This sort of operation is not limited to the Kentucky mountains or even to coal. Surface mining for coal and other minerals goes on at an accelerating pace. An estimated 3.2 million acres have already been disturbed, an area as large as the state of Connecticut.

But the most violent stripping of all is that which goes on in eastern Kentucky. The increasing destruction has aroused the apathetic, poverty-stricken people to defend literally all they have left—the land on which they live. Indigenous political organizations are forming, and there have been sporadic confrontations. Mining equipment has been dynamited. Groups of mountain men with rifles have raced down and stopped some miners.

And then, a month ago, on his last full day of office, outgoing Governor Edward T. Breathitt of Kentucky took surprise action. He signed an order tightening the state's control of strip mining. Previous rulings under the Kentucky law had barred mining on slopes steeper than 33°, and this had not stopped the raping of the mountains. Breathitt's order limited the gouging to slopes of 28° and less. The miners immediately attacked the order in the courts. If the order survives—and if the new governor, Louie B. Nunn, can resist the pressure of the mining interests to repudiate the new order—the destruction in the mountains may be slowed somewhat, but it most certainly will not be stopped.

Breathitt's move was the more startling because resistance to the mining interests is uncommon. The mountaineers who have acted to protect their land are in the minority. Most of the mountain people feel powerless and beaten. This country is in the heart of the Appalachian rural poverty belt. The people are a welfare generation of out-of-work coal miners. Their shacks are weathered and sagging, and the creeks are filled with rubbish and offal. Thus it was with Cecil Combs.

He is 57, a gray-haired, compact man whose front teeth are missing and whose air of easy natural dignity, now that his trouble has come, is corroding into servility. He did not go to school and he cannot read or write or sign his name. He worked in the coal mines but he learned no trade. The deep-mine boom collapsed in the late 1940s, and the mines are shut and the few that remain open don't want men like Combs.

They want young men, educated, trainable to the gigantic and often automated new machines that tear coal from the mountains and send it in furious streams to the big new power plants. And anyway, one night years ago when Combs was drinking, a fight began and a man pulled a slender blade honed bright as silver and Combs took it in his right hand. It cut muscle and tendon and Combs has never used the hand since for anything fine. Without skills, his hand useless, his mind touched with the uneasiness of the illiterate in a literate world, Combs is unemployable.

He married a widow who owned the farm on Pigeon Roost Creek, a nearly vertical 30 acres of no great value. She had three retarded sons, grown men who could not shave themselves, and for this genetic disaster she drew $217 a month in welfare money. There was no other income.

So the farm was vital. The best of it was an acre or so of bottomland along the creek where the house also stood. The soil here was rich and it gave strong potatoes, peas, onions and big red tomatoes sweet with sunlight. On the steep slopes that ran above the house, Combs had an extensive cornfield. His chickens ate most of the corn and equitably returned their keep in eggs.

The coal seam lay 10 feet thick near the top of that slope. The agile bulldozers with their shiny blades came easily around the ridge and started to cut a deep, right-angle notch into the side of the mountain above the seam of coal. When it was finished, it would look like a big highway cut. The bottom of the notch would be like a smooth roadbed that was paved in coal.

First the blades attacked the trees. Combs stood by his house on the slope far below and watched the trees, where he once had hunted, quiver and then suddenly lash down like whips as their roots gave way. The bulldozers pushed the trees aside—over the lip of the cut, onto the slope below—and bit into the surface dirt. They pushed the dirt over the trees and gradually on the hillside a bank of debris began to form. It was called, quite aptly, a spoil bank.

When the bulldozers met the first layer of solid rock, truck-mounted drilling rigs bored six-inch holes through the rock to the level of the coal below. The miners poured in a simple explosive mixture of nitrogen fertilizer and diesel oil, tamped it with loose stone and fired it. The rock heaved and bulged and cracked in a hundred directions. Then the power shovels came to help the bulldozers. Endless tons of a shale rock that disintegrates into loose clay when it is exposed to air were broken free and rooted out onto the growing bank. Sterile subsoil of clay and rock that was innocent of organic material was dug out and pushed over the side. Loose and crumbly, it sponged up rain water until it had a plastic quality.

The soil bank clinging to the side of the hill grew huge. It covered the debris of the trees completely except for an occasional denuded trunk thrusting out like a twig stuck in the ground.

When a strip of coal about 150 feet wide was finally uncovered, the vertical wall of the notch was nearly 100 feet high. Small tractors with brushes whisked the last dirt from the coal before power shovels broke it into pieces and lifted it into trucks that carried 27 tons at a load down the winding roads to the railhead below.

As the coal was lifted, the bulldozers were out ahead cutting new ground. Others came behind the coal trucks and shoved part of the towering spoil bank back into the cut. But most of it remained where it was, poised over Cecil Comb's farm, while the bulldozers moved on around the mountains, farther and farther until their coughing noise died in the distance and you could hear the birds once more around Pigeon Roost Creek.

The weather was dry just then and nothing happened for several months. Then one day a long section of the spoil bank tore loose and slid down the mountainside with a roar. It scoured away timber and topsoil all the way down and it carried clear into the creek, perhaps 100 yards downstream from Comb's house. The water began to back up. It formed a small lake that gradually covered his garden and killed the vegetables. Inch by inch, the water rose into his house. He carried the family's meager possessions up the hill to a deserted shack of only two rooms that stood in his cornfield. When the water did not go down, he dismantled his ruined house and used the wood to patch the shack. He built a third room with a window, papered the inside and made it livable.

Then the summer rains began. It rains about 50 inches a year in these mountains. The spoil bank of loose dirt high on the slope began to absorb water. The dirt softened and became more plastic. Water seeped through to the hard surface of the original hillside and then served as a lubricant for the loose dirt lying on it. After a while the mass of dirt began to move. It did not come down with a roar. It came down as mud—oozing, lifting, surging, snapping off trees and absorbing them, moving a foot or two or three and then pausing in uneasy suspension before shifting again.

Day after day, Combs watched it come. Presently it angled directly toward his cornfield and house. He began digging up big stones and rolling them end-over-end to the edge of the field, just beyond the last row of corn, to form a dam. He stacked the stones and chinked them with smaller stones and filled the cracks with gravel until he was exhausted, and then he waited. The mass of wet mud with its cargo of boulders and broken timber crawled on, encountered the dam, rode easily up its face and then, inexplicably, stopped. It poised threateningly, but it was caught in some internal balance between viscosity and gravity, and it held.

It is Comb's opinion that his dam saved him. But the bulge continues to absorb water. It is swollen and so soft in places that a man sinks to his knees. The winter's alternate freezing and thawing have weakened it further. Sooner or later it will start to move again. It will shift and heave and it will envelop the dam and cover the cornfield and crush the house. Then the ruin of Cecil Combs will be complete.

Under rulings of Kentucky's Appeals Court, he has no recourse. The broad-form deed drawn those decades ago for the sale of the mineral rights plainly says that the miner may do whatever is "necessary or convenient" to remove the mineral. Strip mining was unknown then, so there was no anticipating the violent damage. But Kentucky courts, contrary to those of other states, ruled that the old deeds hold good despite the new situation.

When a man is goaded to gunfire, that doesn't work either. A man named Tom Fuson proved that, though he never had a moment to reflect on the fact. Fuson was 81 years old and he had lived all his life near Pineville, Ky., some 100 miles from Pigeon Roost Creek, on a mountain farm so remote that no road reached it. His oldest boys, Steve and Jim Bob, lived with him. They hunted and made whisky and raised corn and there was a strangely remote quality about the whole family, as if they lived in a world that was slightly different from that of other people. When title to their property was disputed and they were dispossessed, the boys moved into a tent and vowed to hold their land.

The strip miner started on a coal seam a mile or more away, but he worked steadily and it was plain that he would cross the Fuson property. Jim Bob is reported to have said, "I'll kill them sons of bitches if they come on my land." The day the first bulldozers reached the property line, a man who never has been officially identified stepped out of the brush and fired a shotgun. The range was extreme and the pellets knocked the driver off the seat of his machine without seriously wounding him.

That same night the sheriff and his posse came out to arrest the Fusons and it is not clear now how the shooting began and perhaps it is not even important. But the result was that Steve was wounded so severely that his hand was amputated the next day. Old Tom Fuson was sitting up on his cot, having eaten his supper, and a bullet through his chest slammed him back on his pillow and killed him. Jim Bob fled into the woods, but he surrendered in time to attend his father's funeral and listen to the preacher, all red-faced and gasping, give a wild country sermon that dwelt on the sweet region to which old Tom had gone and never mentioned the situation that had sent him there.

Such resistance is beyond most mountain people. They have lived on public welfare for generations and they are depressed and demoralized. The ambitious ones leave, and those who stay behind are usually beaten. Now their very soil is being destroyed and this is destroying them.

Back on Pigeon Roost Creek, the mining company made small gestures to Cecil Combs. It paid him a pittance and it patched his road, which now is inclined to fall into the pond covering his garden land. Talking privately, Combs measured these efforts with contempt. "They 'stroyed me, that's all there is to it," he said. "When they take a man's garden, I guess they take the last thing he's got that counts for anything."

But the next day the mining company representative visited Combs and then it was different. The representative was a hard-looking man with small flinty eyes who kept spitting on the ground. Coldly, he said, "Now, you understand, under the deed, company don't have to do a god-damn thing for the landowner. But it tries, know what I mean, it tries to he'p out." Suddenly he glanced at Combs. "Ain't that right, Cecil?" he snapped.

And Combs swallowed and glanced at his shoes. "That's right," he said. "Company's sure done everything it could for me."

The violence done to Cecil Combs's 30 acres is repeated a thousandfold and more across the mountains of Kentucky. From the air you can see the timbered ridges, stretching for miles into the bluing haze with the yellow wounds of the miners' cuts clearly marked in their sides. The cuts follow the coal seam, rounding ridge after ridge. Sometimes they encircle a mountain, leaving a lonely island of trees on top, and sometimes, in a sort of cosmic contempt, the miners simply whack off the entire mountain top and leave it a mesa.

Rock containing sulphur often is exposed and it oxidizes. Rain water washes it into a mild solution of sulphuric acid that collects in reddish pools. It seeps into the water table and ruins wells. It runs down into the streams. The fish die and the grass along the banks surrenders and the trees that shade the stream fail to leaf the following spring.

The spoil bank leaks yellow silt into the streams. Gradually it covers their stony bottoms and the creeks begin to fill. Then they cannot contain the runoff of the heavy rainfall and they send floods of acid water over the fertile bottomlands and coat them with the sterile silt. In many places today, only cattails and other marsh plants prosper on what was the best garden land.

These conditions are fast becoming endemic to the Cumberland Mountains, and wherever the land is damaged, the society is damaged. In most places, individuals are recompensed for the immediate damage to their property. In the Kentucky mountains the suffering has been cruelly direct.

An eloquent mountain lawyer, Harry Caudill of Whitesburg, Ky., anguished by the sight of a failing people on a mutilated

land, has become the chief apostle for their cause. He is a tall, slender man of 45 who walks with a limp from a World War II bullet wound. In 1963 his powerful book *Night Comes to the Cumberlands* illuminated the nature of the Appalachian poverty. It sold 60,000 copies—including a single order of 3,500 from the U.S. Department of the Interior—and has brought him visitors from all over the world. He welcomes them in the same rolling, oracular phrases in which he writes, a style influenced perhaps equally by his mountain heritage and a taste for classical literature.

"When man destroys his land, he begins to destroy himself," Caudill says. "I believe that. These scarred old mountains have always been exploited and brutalized. The pioneers farmed the soil to death, timber companies stripped the trees, coal companies gutted the hills. Now strip mining compounds the destruction. The exploitation of the 19th Century we so roundly condemn is continuing unabated in the last third of the 20th Century—the same rapacious urge for profit, the same disdain for the future, the same brutality to the resources for the profit of the few."

Caudill tilts back in a hand-hewn black walnut rocker with a ladder back that reaches above his head and eases his injured leg. "We're laying a precedent for the destruction of vast areas. This is not an abstraction. We're talking about millions of acres, at a time when we're on a collision course between diminishing land and an increasing population. This land may not recover fully for a century. If we have any consideration of posterity, of continuity, of meaning or design in the human equation, then the land is the most important heritage we can pass down. Those narrow few inches of topsoil laid down over so many centuries are the very basis of life. That explains man's atavistic attachment to the earth—and it explains why the mass destruction of land is somehow obscene.

"You see this in these murdered old mountains and in the impact on the spirit, the soul, the mind of these people."

The coal interests of Kentucky regard Caudill as an impractical visionary who doesn't grasp the real significance of progress. His eloquence and his national audience infuriate coal men. When I saw Caudill, I recalled that a powerful Kentucky strip miner had said, "I went to college with Harry Caudill. He was a son of a bitch then and he's a son of a bitch now." Caudill smiled at this. "Strip mining," he said softly, "has become a very big business."

Coal is still America's most abundant fossil fuel by a wide margin. There is boom demand from the power plants that feed this country's voracious appetite for cheap electric power. The Tennessee Valley Authority, for instance, has long since outgrown its hydroelectric facilities and now is the nation's single biggest buyer of coal, all to operate its steam-generated power plants. These plants are designed to burn coal of any size and purity, so the new criterion is not the quality of the fuel but the cost of mining it.

The most desirable coal, therefore, is that closest to the surface. Ever bigger equipment makes it possible to lift an increasing amount of dirt from the coal seam at the same cost in man-hours. Already a strip miner can extract about twice as much coal in a working day as can an underground miner.

The secret is in the incredible machines. The mountain bulldozer is synonymous with power—but it is small compared to the monsters that prowl the flat country and methodically demolish tracts of land so vast that they must be measured in the hundreds of square miles.

In the western end of Kentucky, which is pretty, slightly rolling farm country though it is still underlaid by the same coal seams found in the mountains, stands an awesome machine—an electric shovel as tall as a 20-story building. Inside, with its 52-separate motors screaming, it is surprisingly like the engine room of a deepwater ship unaccountably plowing overland. It bucks and plunges as it bites the earth and swings its huge boom; with every bite it lifts over 350,000 pounds of dirt and sets it down a block away. It takes two or three such bites a minute and it often works a 20-hour day.

Strip mining in flat country is quite different from that in the mountains. The huge machine makes a first box cut perhaps 100 feet wide and 1,000 feet long, all the way to the depth of the coal—say, 80 feet deep. Every cubic foot of the dirt and stone over the coal is gnawed out in 350,000-pound bites and stacked in long and desolate ridges to one side of the cut. After the coal is lifted, the big machine trundles over to gouge out the next parallel cut and stacks the dirt and debris in the first cut, thus creating a second ridge. The continuing cuts go on and on, widening for miles, throwing up a series of ridges.

Smaller shovels follow and scoop the coal into trucks that carry more than 100 tons at a time directly to TVA's waiting power plant a bare two miles away. This is instant power. The plant was built at the edge of the strip mine and everything is geared to speed. The trucks pour the coal onto a belt which takes it to a crusher and feeds it onto another belt that can carry 1,000 tons an hour into boilers that stand 10 stories high. The coal goes into the furnace in a blast of whirling air called cyclone ignition and is consumed instantly. It builds steam at 2,400 pounds per square inch, 1050° F., to drive the large turbines that turn the generators that send millions of watts of electricity down the silvery wires that stretch from the plant.

For that is the point: it is much cheaper to move electricity than to move coal. In the instant of its flaming ignition, the impurities drop out of the coal in molten slag that is cooled in water, then removed and buried. It is possible for coal to be mined, transported, crushed, burned and returned to the earth as worthless fly ash in the span of a single working day.

This trend—size, speed, efficiency and, above all, ever greater volume—is the future in coal. That future rests on still bigger machines. The mammoth shovel in western Kentucky once was the world's largest. But now a new one, in Illinois, lifts over half a million pounds—and there is talk of another that will take bites of two million pounds each.

Coal seams run for miles. They can underlay whole states. "I suppose," a Kentucky state official says, "they may lift the whole western end of Kentucky eventually—except where the towns and highways are."

Strip mining operations are wide open to anyone who can raise the capital for a bulldozer, a shovel and a coal lease. Though big companies are strip mining—the Peabody Coal Co., for example, and Consolidation Coal—the field is dominated by independents. Profits are good and even the small operators get bigger and bigger. One Kentucky mountain stripper only a decade in business is currently working on orders for more than $100 million worth of coal.

These men are hardly rapacious by nature. They have developed a new and economical method of mining a necessary mineral and they see things from that point of view. The industry's most articulate voice probably is that of G. Don Sullivan, a quiet-spoken, pleasant man who is a consultant to the American Mining Congress.

Sullivan would agree with the industry's conviction that those who protest strip mining are "bleeding hearts and do-gooders who don't understand the real issue." America has fought her wars and built her industrial wealth on coal, and Sullivan believes that the cheapest coal is automatically the coal because it allows the greatest rate of industrial progress. To adopt a criterion for excellence other than the cheapest rate of production would be, he feels, to violate "the good old American free enterprise system and, frankly, I hope I never see the day that happens."

Anyway, he adds, most land being stripped, particularly in the mountains, is almost worthless on today's land market, so there is no great loss.

And in places other than the Kentucky mountains, the people most directly involved, the landowners themselves, are not complaining because they are well recompensed for the damage done to their property.

That is the heart of the matter, really. What is the land worth? Who judges?

I know a pretty valley outside Clarksburg, W. Va. through which Elk Creek flows. Once this was good farm and cattle country; it wasn't rich, but it was busy and productive. Hill farming is increasingly hard, however, and the 50 or so landowners began to find more and more attractive the offers of up to $1,000 an acre for the right to strip the land for the coal that underlay it. Now, a decade later, acid and silt pour out of the torn hillsides, the creek is filled and often floods, the bottomlands are largely marshes and most of the cattle are gone. The farmers of Elk Valley who cashed in are satisfied. They elected to abandon their land and they have no complaint. But just the same, though four or five farm families remain, the valley is ruined. Multiply Elk Valley by a thousand and another thousand, across the 23 states that strip-mine coal, and what then?

The only workable answer so far is reclamation enforced by law, its cost simply part of the cost of mining the coal. In European strip mining, on land already at a premium, the dirt is set aside, the coal lifted and everything replaced in order, the rock and subsoil below, the top soil back on top. It is compacted, leveled, limed to counteract acidity, fertilized and planted. This really restores land but, at least from a strict economic point of view, such a program isn't feasible in the U.S.: it costs more per acre than the average per-acre price of land.

In a few showcase places, the strip mining industry reclaims the land beautifully but it seems at best a token effort. Nor have state reclamation laws been very successful. Only a few states have laws making a serious attempt to control strip mining, and it is an ironic measure of how ineffective they have been that Kentucky's is probably the strongest.

Kentucky's essential requirements, however, are still slight. Flatland strip miners have to smooth the crests of the ridges they leave behind and plant them in a protective cover of grass or small trees. In many places it will take up to a century or more for such cover to regenerate the land and restore its original productivity. Nor do any laws touch the hundreds of thousands of acres already destroyed to which, in many cases nothing at all has been done. Mountain strippers are limited in the steepness of the slope on which they can mine, but in a country in which even highways carefully notched into the sides of mountains tend to slide, it is hard to expect hasty stripmine notches not to spill slides down the hills.

The mining industry, meanwhile, is mobilizing to fight a bill introduced in the U.S. Senate by Frank J. Lausche, Democrat, of Ohio, which would put strip mining under a loose federal regulation. The Department of the Interior has issued a report condemning strip mining practices, and Secretary of the Interior Udall has referred to strip mining as "a damned outrage," but the fact is that the rather limited Kentucky law probably would exceed the federal statute in nearly every respect. The federal bill, like the state laws, is aimed at the flatland strip miner. None really solves the mountain problem because there the debris taken from the notch falls down the hillside and there is no way to get it back up.

Strip miners in the Kentucky mountains also are required to plant their pendulous spoil banks. It can be done, despite a tendency of the spongy earth to slide downhill, carrying the plantings along. Near Hazard, Ky., I visited an exceptional apple orchard, 8,700 rosy little trees planted by a strip miner almost single file along the notch he had cut in the mountain. They were fertilized, carefully tended and growing. They well might mature and bear fruit.

To reassure myself that I had not misjudged the excesses and the damage of mountain strip mining, the last place I visited before leaving Kentucky was Pearl Grigsby's farm on Lotts Creek near Hazard. I found Grigsby on the rude road that miners had made through his hollow—against his wishes—for easy access to the notch they had cut above. He showed me a boulder the size of my Jeep that had come crashing down during the blasting. We could hear a bulldozer on the cut above us. It was late in the day and presently the big machine came snorting down the road. The operator stopped; he was a local boy with a warm smile.

"Hoo, Pearl!" he shouted. Grigsby nodded in a cool way and the boy waited a moment and then clattered on down the mountain. "Can't blame him none," Grigsby said. "Man's got to work. Got to support his family." But he was speaking from his mind, not his heart. The boy's machine had done him fearful damage.

I went onto the notch itself and stood over the slide that poured down on much of Grigsby's hollow. The ground was wet and I could hear water trickling. Now and then a miniature slide broke free of the mass with a wet thwacking sound, tumbled a few feet and stopped. It was yellow and orange and blue with clay. Sandstone boulders and torn timber poked out of it. On impulse I started down. It was steep and wet and slippery. My boots sank to the ankles—in places I went in to the knees—in viscous, shifting, gooey mud. I went down and down, around the boulders, under the broken trees, slipping, sliding, falling—and toward the bottom, planted knee-deep in mud, I turned to look at the mass now towering above me, wet and glistening in the failing light, and it was as threatening as the high wave of a following sea in that moment before it comes down on you.

That slide will not stop, law or no law. And all at once, I remembered an old mountain lawyer who, smiling cynically, used to drawl, 'Mountain strip mining laws are kind of like letting a fellow go ahead and commit rape—provided he signs a bond guaranteeing to restore the victim to her original condition. It just can't be done."

## SENATE JOINT RESOLUTION 150—INTRODUCTION OF JOINT RESOLUTION TO ESTABLISH MAY 1968 AS "NATIONAL ARTHRITIS MONTH"

Mr. ERVIN. Mr. President, today on behalf of myself, Mr. FONG, Mr. KUCHEL, Mr. JORDAN of North Carolina, Mr. MURPHY, and Mr. MILLER, I introduce a Senate joint resolution asking the President of the United States to designate the month of May 1968, as "National Arthritis Month." By this action, I believe the Congress will accomplish three independent and useful public purposes.

First, we will increase our own and the public's awareness of the toll of this disease, its magnitude, and cost, so that we can make wise decisions as to the amount of public effort we assign to combat it and research for its causes.

Second, we will give recognition and impetus to our biomedical research efforts to unlock the secrets of this disease—to alleviate its disabling symptoms and, hopefully, to discover and counteract its causes.

Third, we will give recognition and support to those national institutions that meet the needs of victims and potential victims of arthritis for access to reliable, up-to-date, and relevant information on what medical science and the victim himself can do to reduce the disabling consequences of the disease.

The importance of arthritis is impressive. Mankind has suffered from it ever since Java man, half a million years ago, left us his bones with the unmistakable evidences of this affliction. Tombs and sarcophagi all over the world reveal that no race has been spared its ravages. The U.S. Public Health Service calls it the No. 1 chronic disease.

Arthritis afflicts more than 13 million of our citizens. It causes an estimated 186 million days of restricted activity, 57 million days in bed, 12 million days of work absenteeism, 30 million visits to the doctor, and 1½ million days of hospitalization every year. Its annual cost approaches $3 billion, including: expenses for drugs, $435 million; lost wages, $1.5 billion; hospital and medical costs, more than $200 million, and large amounts for lost homemaker services and premature death.

In the light of these figures, I think we ought to ask ourselves: How much effort is it worth—how much ought we to spend—in the endeavor to conquer this disease? The army of sufferers exceeds the peak of our Armed Forces in World War II. The ailment costs the Nation each year more than the total we spent to develop the atomic bomb. How large an effort should we mount to wipe it out?

In an age when novelties capture the headlines—when space science and surgical spectaculars command our admiring attention—it is hard to preserve a sense of proportion. There is little that is spectacular about arthritis. It often wounds but seldoms kills. Yet it is the most common, perhaps the most costly, and certainly one of the most nagging and frustrating of life's painful experiences.

Our Nation has set for itself the goal of preserving and expanding human freedom. But there is little freedom for those 13 million who are tied to their beds, to restricted physical activity, to strict regimens of medical attention, medication, and behavior. Nor to those deluded unfortunates who are deceived by vicious quack nostrums that promise "long-lasting relief" or "an end to suffering within hours." Annually, the blind alley of fraudulent remedies captures $300 million from the foolish, the uninformed, the impatient, and the frantic. Worst of all, these deceptive products waste not only the victim's dollars but the valuable time that could be invested in a program of medical salvage—for quick diagnosis and prompt treatment by a knowledgeable physician can mean the difference between a nearly normal life and a lifetime in a wheelchair.

How much are we spending to seek out the causes and the cure? The answer is that our current research budget in this fiscal year is $11 million for research, plus a small amount for additional work in applied fields.

Then, what is the prospect of success from research into this difficult problem? What further efforts might we make that would be worthwhile—could we usefully sponsor a broader effort?

It would be too optimistic to say that biomedical research stands at the threshold of success. The fact is that the cause of arthritis is still a mystery. Theories are beginning to take form; we are learning where to look for an explanation. But we still do not know. Even so, three significant accomplishments of research deserve our grateful recognition.

First, we have developed an array of medical treatments, specific to the particular forms and stages of arthritis. For arthritis is not one disease but a hundred. Much medical research still needs to be done to sort out the facts about these different, but related ailments. What drugs and what treatments work best with each? In most cases, with early diagnosis and proper medical care, severe crippling can be avoided. In virtually all cases, medical attention can alleviate the symptoms. It can restore many sufferers to active participation in life and work. No case is hopeless.

Early work is in progress to investigate the clinical value of a preparation extracted from bone marrow and cartilage for the treatment of osteoarthritis. Another drug that shows promise is cyclophosphamide. Recently a new drug was added to the arsenal of pharmaceuticals to bring gout under control. These are only illustrative of the many lines of investigation into biochemical treatment of this disease in all its many forms.

Second, biomedical researchers have achieved real progress toward understanding the organism that undergoes degradation—the first step toward total defeat of this tireless plague. In the exploration of the biological molecule, in the elucidation of the chain of metabolic processes, the United States has achieved world scientific leadership. We have contributed signally to world understanding of molecular biology, which is believed to hold many of the keys to unlock the secrets of metabolic disorders—not only arthritis, but also diabetes, obesity, and kidney and blood ailments.

Third, there is progress in research into the causes of arthritis itself. Two competing theories are being painstakingly tested. There is experimental evidence in support of each. One theory holds that rheumatoid arthritis is caused by an infectious micro-organism intermediate between bacteria and viruses. Another theory being tested has to do with the failure of the body's immunological processes, and suggests a possible avenue to general treatment. There is hope here, but no certainty. We must keep plugging away with steadfast determination until we find the answer. Mankind has already suffered from it for half a million years; we can have patience for a little longer.

I spoke critically, a moment ago, about the fraudulent nostrums and pretended cures of arthritis. But fortunately, there are two national organizations on the

scene that balance the ledger on the credit side. I should like to give special mention to these organizations that spearhead the campaign to rid our world of arthritis for once and for all.

One is the National Institute of Arthritis and Metabolic Diseases in the National Institutes of Health. It sponsors and conducts much fundamental research in this field. In May 1965, the Surgeon General of the U.S. Public Health Service convened 100 of the top authorities in all fields of health. This convocation recognized that while research should be pursued, we should also make better use of what we already know. Above all, as new techniques are devised they must be quickly put to good use everywhere. This is a tall order.

The other national institution aims to do just that. It is the Arthritis Foundation, a private and voluntary organization with local chapters of medical people, health officers, and others associated with the field. It works closely with and its high usefulness is recognized by the Public Health Service. Appropriately enough, the Arthritis Foundation celebrates its 20th anniversary in 1968. Accordingly, it is appropriate that its contributions to health be recognized with the joint resolution here proposed.

The goal of the Arthritis Foundation is a total answer to the arthritis problem—both prevention and cure. It sponsors research, supports professional education, and coordinates work of local clinics, community health services, and home care programs. One of its most important functions is the distribution of the latest authoritative information about arthritis. Local chapters tailor the information to the particular problems and needs of the individual victim.

In requesting the Chief Executive to designate May 1968 as "Arthritis Month," the Congress will help to focus public attention and professional skills on the defeat of this incubus. Scientific understanding is the way to scientific achievement. Public understanding leads to public responsibility. Awareness on the part of the victims of arthritis as to the risks of shortcuts and the valued capabilities of medicine today can obviate pain and disability. All of these are proper goals and proper business to command our vigorous prosecution.

Mr. President, I ask unanimous consent that a copy of the joint resolution be printed at this point in the RECORD.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 150) to designate the month of May 1968, as "National Arthritis Month," introduced by Mr. ERVIN (for himself and other Senators), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 150

Whereas arthritis is the most widespread chronic disease and greatest crippler in the United States, affecting over thirteen million citizens; and

Whereas two hundred and fifty thousand additional Americans are stricken with this dread disease every year; and

Whereas arthritis strikes people of all ages; and

Whereas twelve million days of work and one hundred and eighty-six million days of restricted activity are lost each year because of arthritis; and

Whereas the annual cost of arthritis to Americans is estimated to approach $3,000,000,000 annually; and

Whereas the use of medicine can prevent severe crippling in seven out of ten cases of arthritis through early diagnosis and prompt and appropriate treatment; and

Whereas "back-to-work" programs sponsored by local Arthritis Foundation chapters have shown that many arthritics may be returned to gainful employment; and

Whereas home-bound sufferers of arthritis are receiving treatment in many areas from mobile therapy units provided by local Arthritis Foundation chapters; and

Whereas the Arthritis Foundation will celebrate its twentieth anniversary in 1968 marking twenty years of progress in research and patient care; and

Whereas there is a great need for trained physicians, therapists, and nurses to provide assistance to arthritics and to carry out research to discover the cause and cure of arthritis; and

Whereas only $15,000,000 was spent in 1967 for arthritis patients and research: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States is authorized and requested to issue a proclamation (1) designating May, 1968, as "National Arthritis Month", (2) inviting the Governors of the several States to issue proclamations for like purposes, and (3) urging the people of the United States, and educational, philanthropic, scientific, medical, and health care professions and organizations to provide the necessary assistance and resources to discover the cause and cure of arthritis and to alleviate the suffering of persons struck by this disease.

Mr. KUCHEL. Mr. President, the crippling disease of arthritis requires the attention of all America. The designation of May as National Arthritis Month is an appropriate means to focus public concern. I am proud to join my distinguished colleagues in offering this resolution, as 1968 marks the 20th anniversary of the Arthritis Foundation whose vital work has blazed a trail in finding a remedy for this dread crippler of so many of our citizens.

I have a very good friend, Dr. Ephraim P. Engleman. He is a distinguished professor of medicine and head of the rheumatic disease group of the San Francisco Medical Center at the University of California. He has called my attention to 10 essential points of which we should all be aware. I would like to point out that among them is the salient fact that arthritis is not a disease of old age; that it may strike anyone from infancy onward. Its cause remains a mystery.

Its cost is incalculable. The annual loss in tax revenues from the drain it places on our economy may run as high as $200 million. That fact alone should make National Arthritis Month worthy of the immediate attention of the Senate. I ask unanimous consent that the 10 points which Dr. Engleman has made be placed in the RECORD at this point in my remarks.

There being no objection, the 10 points were ordered to be printed in the RECORD, as follows:

1. Apathy on the part of the public and, as a result, a lack of funds for research and patient care has marked the fight against arthritis from the very beginning. Now the problem grows greater as our population explodes. Already there are more than 13,000,000 people in the United States who are victims of this dread disease and each year 250,000 more are added to the total.

2. Arthritis is our nation's most widespread chronic disease and its greatest crippler. There are close to 100 rheumatic diseases menacing our health, the two most common being osteoarthritis and rheumatoid arthritis, the latter the most ravaging form which can be so painful that even the touch of a bedsheet is an agony for its victims.

Although no specific cure is known, medicine today can prevent severe crippling in seven out of ten cases of even the worst forms of the disease through early diagnosis and prompt treatment to fit the individual.

3. Arthritis is not just an ailment of old age. It can strike anyone at any time, from infants to old people.

4. The cause of arthritis remains a mystery. Although certain drugs can relieve symptoms temporarily, science still has no cure. Nor does climate have an effect on the course of the disease.

5. In terms of human suffering the cost of arthritis is incalculable. In time lost from work, arthritis sufferers show a staggering 115,000,000 days a year, a figure equivalent to 470,000 people out of work for the entire year. It amounts to more than a billion and a half dollars annually in lost wages.

6. Arthritis also drains away $200 million from the United States economy in lost income taxes. An estimated 12 per cent of the welfare dollar goes into bare subsistence allowances to arthritics unable to support themselves. Another cost is the more than $300,000,000 a year swindled from desperate sufferers by promoters of misrepresented remedies and false "cures."

7. "Back-to-work" programs sponsored by the local Arthritis Foundation chapters have shown that many arthritics can be returned to gainful employment, and home-bound sufferers, unable to get to Arthritis Foundation clinics for treatment, are being reached in many areas by chapter mobile therapy units.

8. To answer all these needs and to carry on the research which will ultimately find the cause and cure of America's No. 1 crippler, there must be more trained physicians, therapists, and nurses with the latest tools and knowledge about arthritis.

9. And particularly there must be more money for research. More and more scientists are working on the mysteries of this age-old disease and more than 50 medical schools have established departments of rheumatology.

10. All these needs must be met, yet only $15,000,000 from all sources was expended on arthritis patients and for research this year. This is ironic when compared with the figures above, particularly those spent on quackery.

## ADDITIONAL COSPONSORS OF BILLS, JOINT RESOLUTION AND CONCURRENT RESOLUTION

Mr. METCALF. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from New York [Mr. KENNEDY], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wisconsin [Mr. NELSON], the Senator from Vermont [Mr. AIKEN], and the Senator from Alaska [Mr. GRUENING] be added as cosponsors of the bill (S. 2933) to establish an independent agency to be known as the U.S. Office of Utility Consumers' Coun-

sel to represent the interests of the Federal Government and the consumers of the Nation before Federal and State regulatory agencies with respect to matters pertaining to certain electric, gas, telephone, and telegraph utilities; to amend section 201 of the Federal Property and Administrative Services Act pertaining to proceedings before Federal and State regulatory agencies; to provide grants and other Federal assistance to State and local governments for the establishment and operation of utility consumers' counsels; to provide Federal grants to universities and other nonprofit organizations for the study and collection of information relating to utility consumers matters; to improve methods for obtaining and disseminating information with respect to the operations of utility companies of interest to the Federal Government and other consumers; and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, I also ask unanimous consent that, at its next printing, the name of the Senator from Maryland [Mr. TYDINGS] be added as a cosponsor of the bill (S. 2315) to amend the Internal Revenue Code of 1954 to grant to certain joint endeavors organized by hospitals the same tax exemptions as are accorded to the participating hospitals.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at its next printing, the name of the distinguished junior Senator from South Carolina [Mr. HOLLINGS] be added as a cosponsor of the joint resolution (S.J. Res. 8) proposing an amendment to the Constitution of the United States, extending the right to vote to citizens 18 years of age or older.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from South Dakota [Mr. MCGOVERN], I also ask unanimous consent that, at its next printing, the name of the junior Senator from Wyoming [Mr. HANSEN] be added as a cosponsor of the concurrent resolution (S. Con. Res. 11), the National American Indian and Alaska natives policy concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BASIC PRINCIPLES FOR GOVERNING THE ACTIVITIES OF NATIONS IN OCEAN SPACE—AMENDMENT

AMENDMENT NO. 605

Mr. PELL. Mr. President, on Tuesday I proposed a draft of an actual Ocean Space Treaty, for which I feel there is a great need, in order to end the threat of legal chaos beyond the territorial seas and the Continental Shelves. This draft was also incorporated in Senate Resolution 263, which I submitted at the same time.

Today, Mr. President, I have prepared an amendment in the nature of a substitute to Senate Resolution 186, which I introduced last fall. The purpose of this amendment is to incorporate into Senate Resolution 186 the refinements which I have added with the help of many individuals both inside and outside of Government who have been kind enough to offer their suggestions both during and since the Foreign Relations Committee hearing last November 29.

Mr. President, let me explain the difference between this amendment and Senate Resolution 263, which I introduced on Tuesday of this week. Senate Resolution 263 reflected the sense of the Senate that the executive branch should commence negotiations to arrive at a binding treaty which would incorporate the ideas contained in the treaty draft set forth in that resolution.

Today I am amending Senate Resolution 186, which simply calls on the President to work through the United Nations to persuade the U.N. General Assembly to adopt a resolution supporting the principles which should guide the formulation of an eventual treaty.

These are two separate approaches to the same end which can be pursued simultaneously. The most logical first step would be to achieve agreement on the principles which should go into an ultimate treaty—this is the purpose of Senate Resolution 186. If agreement on principles is reached promptly, then it is useful to have ready the actual draft of a treaty—which is incorporated in Senate Resolution 263.

Mr. President, I submit this amendment to Senate Resolution 186 for appropriate reference.

The PRESIDING OFFICER. The amendment will be received, printed, and appropriately referred.

The amendment (No. 605) was referred to the Committee on Foreign Relations.

## THE PRESIDENT AGAIN TAKES THE LEAD IN CONSERVATION

Mr. MANSFIELD. Mr. President, President Johnson's message on the environment lays before Congress a program for progress in conservation unmatched since the days of Teddy Roosevelt.

It embarks the Nation on nothing less than a new conservation—to cleanse the air we breathe, purify the water we use and drink, and preserve the national beauty it is our heritage to enjoy.

Our achievements in the last 3 years have been noble. Six major bills have set us on our course. But we must quicken our pace to keep step with mounting environmental problems.

The technology which has brought us unprecedented economic strength and unexcelled convenience has also—when left unattended—endangered our people's health and our Nation's splendor. President Johnson's new conservation programs do more than meet the challenge—they give us the opportunity to overcome our problems.

The President has pledged that Americans will have pure and plentiful water, that our citizens and our landscape will be protected against the waste products of modern life; that we will win the battle to provide clean air over our cities; and that we can afford increased recreational opportunities for our people away from the pressures of the work day.

To accomplish these goals the administration has created an imaginative action program. The Safe Drinking Water Act of 1968 will permit the Government to develop and enforce improved standards of water safety and launch a comprehensive study of public drinking supplies. The proposed Oil Pollution and Hazardous Control Act of 1968—together with an extended solid waste disposal program—will help dispose of the wastes of modern life which mar America.

An extended air pollution abatement program will help cleanse the air of substances which threaten the health of all of us—particularly the elderly—and have contributed significantly to the rising rate of chronic respiratory ailments.

Moreover, to insure the preservation of our spacious land, our quiet and deep forests, and the clean, cold rivers which are our legacy, the President has proposed to limit the strip mining which scars and sterilizes our land, bring parks closer to the people, and develop a comprehensive network of scenic trails and rivers for everyone to enjoy.

The conservation work we have carried on for 50 years cannot be a resting place—for the preservation of a clean and beautiful America is the work of every generation.

The President's comprehensive program to renew America marks our generation's commitment to preserve the land we love for the generations to come.

## CONSERVING LAND AND RIVERS FOR FUTURE GENERATIONS

Mr. JACKSON. Mr. President, I urge each of my fellow Senators to read carefully and consider President Johnson's message to Congress today titled "To Renew a Nation."

As in previous messages dealing with the quality of our environment, the countryside, and natural beauty, the President has pointed up some of the most important conservation problems the Nation faces and suggested solutions to help solve them.

The time is late for some of the actions. Further delay may make effective action impossible. The President recommends ways to handle our most urgent air and water pollution problems, urges new national parks and recreation areas, and suggests ways to improve our highways.

One particular point that appealed to me was his request that the Congress take action to bring new revenues into the land and water conservation fund. That fund, established in 1965, has been receiving revenues slightly in excess of $100 million a year. A recent study found that, if new revenues are not put into the fund, it will fall short by more than $2 billion in meeting our National, State, and local outdoor recreation needs in the next 10 years.

The Committee on Interior and Insular Affairs is now considering S. 1401, sponsored by myself and other Senators, to augment the land and water conservation fund. President Johnson said today:

> The need for more recreation acreage to serve our growing population—along with rising land costs—require that the Land and Water Conservation Fund be enlarged.

I hope we shall move speedily to consider the President's conservation recommendations. I especially urge prompt action to bolster the land and water conservation fund.

## PRIORITY MEASURES TO RENEW AMERICA'S SCENIC ENVIRONMENT

Mr. ANDERSON. Mr. President, the President of the United States sent to Congress today a very compelling conservation message. His message spells out many of the things that must be done to renew our Nation.

Some of his recommendations have been previously sent to the Congress and are being considered by appropriate House and Senate committees. I sincerely hope we are able to act this year on all the President's recommendations in the critical, important field of conservation.

I am especially interested in what the President had to say about national parks, wilderness, outdoor recreation, and the need to bolster the land and water conservation fund with additional revenues. The Committee on Interior and Insular Affairs now has under consideration S. 1401, a bill which would bring more money into the fund through the use of Outer Continental Shelf lands receipts. It is my hope that the committee will complete action on the bill and report it to the Senate in the next few days.

The Senate already has approved a bill to establish a nationwide system of wild and scenic rivers. The Committee on Interior and Insular Affairs has under consideration a bill to establish a nationwide system of trails. We are hopeful that that bill will be reported in the near future.

President Johnson dwelt on many other conservation problems that will require our attention, including the proposed North Cascades National Park in the State of Washington. It is my strong hope that we will complete action on that measure this year. A North Cascades National Park is extremely desirable as an addition to our national park system.

## RESTORING THE AMERICAN EARTH

Mr. LAUSCHE. Mr. President, in 1965, I introduced S. 368, to provide for a study of the kind of action the Federal Government ought to take to require the rehabilitation by strip mines of the mineral lands which they strip mine.

Subsequent to the introduction of S. 368 in 1965, the substance of that bill was embodied in the Appalachia bill, which finally resulted in a study being made by the Department of the Interior. On June 30, 1967, the Department of the Interior made a report of its study in a book entitled "Surface Mining in Our Environment." The study recommended the need of Federal legislation to require strip miners to reclaim and rehabilitate strip mined mineral land, so as to make such land available for future economic use.

Based in part upon the report of the Department of the Interior, I introduced S. 217, cosponsored by the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Montana [Mr. METCALF], the Senator from Wisconsin [Mr. NELSON], the Senator from Pennsylvania [Mr. SCOTT], the Senator from Maryland [Mr. TYDINGS], and the Senator from Ohio [Mr. YOUNG], to carry into effect the recommendations requiring strip miners of coal land to rehabilitate the lands stripped by them.

With the publishing of "Surface Mining and Our Environment," the report of the Department of the Interior issued last July, the Nation was put on notice that problems of surface mining are rapidly becoming a serious national problem. The report estimated that approximately 3.2 million acres of land throughout the United States have been disturbed by surface mining, roughly 5,000 square miles, an area the size of Connecticut. About two-thirds of this damaged terrain requires additional repair and it is estimated that about 150,000 acres are affected each year by new mining, with less than one-third of this acreage being reclaimed.

It is obvious to all of us that without surface mining, our industrial potential would be seriously reduced today. About one-third of the Nation's coal, almost all of its sand and gravel for building and highway purposes, phosphates for agricultural fertilizers, and vast quantities of iron ores and other nonferrous metals come from the vast open-pit operations. With full recognition of the essential importance of surface mining—and our economy cannot exist without it—there is still no reason that land of potential value must be fallow or derelict indefinitely after the mining operations are over.

The mining industry in many instances has done a good job of reclamation and rehabilitation; unfortunately, their efforts have not been as extensive as they should be in many parts of the country where the aftermath of mining is still a serious regional liability. Much of the new mining machinery, so effective in extracting valuable minerals for industry, could be used in turn for restoring and reclaiming the damaged terrain.

I believe, Mr. President, that the Congress cannot ignore President Johnson's timely request for construction action of some sort, action that on a national scale will reduce future destruction and eventually repair past damage. Furthermore, I agree with the distinguished Senator from Washington [Mr. JACKSON], who said:

> For too long government has reacted to environmental crises rather than anticipating and avoiding them. The future will require that more effort be spent in treating the causes, rather than the symptoms of environmental decay.

This problem requires the early attention of the Congress and I hope that hearings will be held on the administration's legislative proposals in the future.

The President has now stepped out in front to control this growing problem. We must give him our full assistance.

## RAILROAD PASSENGER SERVICE NEEDED IN THE WEST

Mr. CHURCH. Mr. President, one of the most convenient and desirable means of transportation—particularly in the Western part of the United States—is presently threatened with being throttled to death.

I speak of the proposed railroad passenger service cancellations that are currently under investigation by the Interstate Commerce Commission in a dozen Western States.

This week, the ICC held hearings in Pocatello and Idaho Falls, Idaho, on the announced intention of Union Pacific Railroad to cancel its passenger service in eastern Idaho, between Salt Lake City, Utah, and Butte, Mont.

I have set forth my objections to any interruption in this passenger service. Since I feel that my views are germane, not only to this particular case, but to all other Western passenger runs now endangered, I ask unanimous consent that the protest I have filed with the ICC be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR FRANK CHURCH TO THE INTERSTATE COMMERCE COMMISSION IN PROTEST OF UNION PACIFIC RAILROAD'S REQUEST TO DISCONTINUE TRAINS 35 AND 36, MARCH 7, 1968

I submit this statement to the Commission to be included in testimony on Docket 24879, relative to the request of Union Pacific Railroad to discontinue its passenger trains 35 and 36 between Salt Lake City, Utah, and Butte, Montana, via Idaho points.

The very action of the Railroad in filing its notice of discontinuance raises the critical issue in question here, i.e. the role of Union Pacific Railroad as a public utility, subject to the jurisdiction of this Commission, and having a responsibility to provide for the public need.

There can be no question that the Railroad, as a common carrier, owes the duty of operating in such a manner as to serve the public convenience and necessity. In this respect, the Railroad's duty is no less than that of the airlines, bus lines, and other common carriers. It is also comparable to that owed by electric power companies, gas and water firms. But beyond the normal obligation borne by any public utility, the railroads owe a special debt to the people of the United States.

A century ago, when the attention of our country turned Westward, the Federal Government, in an effort to stimulate the growth and development of the frontier, made an outright gift of more than 94-million acres of western lands to the railroads.

All told, the Union Pacific received more than 18-million acres of this largesse—an area equal in size to that of all of the non-Federally owned lands in the State of Idaho. *Public Land Statistics, 1966*, published by the Department of the Interior, shows that the railroads were given title to 1,320,723 acres of land in Idaho alone.

This land, which had belonged to all the people of the United States, furnished the railroads with their right-of-way across the continent, with an immediate source of funds from land sales to settlers, and a continuing source of revenue, to the present day, from mineral leases and timber sales.

As the result of these land grants, and the subsequent development of the railroad system, communities such as those in eastern Idaho, now being served by Trains 35 and 36, sprang up and prospered. They fur-

nished the passenger and freight income from which the Union Pacific has drawn its profits over the years.

This hearing is concerned with the announced intention of the Union Pacific Railroad to discontinue Trains 35 and 36 between Butte, Montana and Salt Lake City, Utah. The Company maintains that it can no longer afford to operate these particular trains because of dwindling passenger loads and the removal of the U.S. Mail. But must each train on the Company's schedule show a profit? If the public interest calls for continued service of certain trains, even though they show a loss, is it not enough that the Company continues to make an overall profit?

The generally favorable profit position of the Union Pacific Railroad is hardly open to question. According to the Company's annual report for the year ending December 31, 1966, total assets are listed at $1,971,184,912, while the net income for the year is listed as $109,791,622—an increase of $16,000,000 over the previous year.

The Railroad asks permission to abandon its passenger service through eastern Idaho, between Salt Lake City, Utah, and Butte, Montana—together with other passenger runs to be investigated at future hearings—because of the loss of revenue that the Company sustains in providing this service. Yet, in 1966, the Union Pacific paid its stockholders $47,912,942 in dividends—and this despite a claimed paper loss of $27,741,895 on passenger service during that year. The Commission, I submit, should ascertain how much of this claimed loss was actually the result of dwindling passenger traffic and how much was due to other cost allocations, such as new trackage, maintenance of right-of-way, and general administrative expenses charged off to passenger service simply because it exists and thus furnishes a receptacle for pro-rated costs, even though these costs would still be incurred if passenger service were abandoned entirely.

Perhaps more important, in any assessment of alleged passenger losses, is the question of what effort the Railroad has undertaken to make its passenger service—a function of its public utility obligation—attractive to the traveler. While other public transportation systems, such as airlines and bus lines, have gone to great lengths to improve service, expand passenger schedules, modernize terminal facilities, and make travel more attractive, the opposite appears to be true of the railroads.

The Union Pacific claims that, with the discontinuance of the mail, it can no longer operate Trains 35 and 36 without undue losses. But what has the company done to increase passenger traffic? A look at the schedules will show that in eastern Idaho you cannot arrive at a local destination from either direction except at an unreasonable hour of the day—or more accurately—the right. The principal railroad passenger service to the State Capital arrives and departs in the dead of night, when it is on time.

While air and bus lines have improved terminal facilities, railroad depots in Idaho have steadily deteriorated, still featuring hard wooden benches, dim lighting, dwindling food and news-stand services, and the odor of strong disinfectants. In short, it would appear that the Railroad is doing all it can to discourage, rather than improve, passenger service.

Still, the public interest in retaining railroad passenger service in eastern Idaho, enabling travelers to journey south to Salt Lake City or north to Butte, should be evident. The severity of the winter in this region is such that, at times, only the trains can operate. Weather conditions often make air service spotty and unreliable. And travel by bus is not the equivalent of travel by train. The cancellation of Trains 35 and 36 would significantly reduce the travel facilities available to the public, restricting their choice and contributing further to their general inconvenience. If the Commission acts favorably on the Railroad's application, the penalty will be borne by the public.

This being so, one must ask what countervailing benefit might accrue to the public should this passenger service be eliminated. Would the savings realized by the Railroad be passed on to the public in the form of lower freight rates, or improved freight service?

Less than three years ago, Idaho wheat growers, handicapped by discriminatory freight rates, that made it more costly to ship wheat from Pocatello to Portland than from Omaha to Portland, pleaded with the Union Pacific Railroad for a change in the tariff structure. They got nowhere.

Will elimination of passenger service in eastern Idaho lead the Union Pacific to make adjustments in its freight rates which will allow at long last, Idaho wheat growers to compete more fairly with those of the Midwest? I have heard no offer of this nature from the Railroad. However, I should think it a proper concern of this Commission.

When any other public utility, with the obligation of public service, comes before a regulatory body to seek a rate increase, it must demonstrate that such an increase is needed in order to insure a reasonable profit or improve existing service. And the burden of proof is on the utility to show cause why such an increase should be granted. The Union Pacific is asking, in effect, to increase its revenues by discontinuance of certain loss-ridden passenger trains. Yet, we hear no offer by the Railroad to pass through to its freight customers, the farmer or the businessman, any part of the savings it seeks to realize from the termination of these particular trains.

In view of the strong financial position of the Union Pacific Railroad and in the absence of any showing that the public will benefit, directly or indirectly, through the termination of Trains 35 and 36, I strongly urge the Commission to insist upon the retention of railroad passenger service for the people of eastern Idaho between Salt Lake City and Butte, Montana.

## RESOLUTION OF NINTH GUAM LEGISLATURE COMMENDING HON. ANTONIO B. WON PAT

Mr. JACKSON. Mr. President, I recently received a copy of a resolution from the Ninth Guam Legislature commending the Honorable Antonio B. Won Pat for the successful completion of another year in office as the territory of Guam's official Washington representative. Mr. Won Pat has done a remarkable job over the past 3 years in representing the people of Guam in Washington, D.C. He has earned the respect and confidence of many Members of the Congress and officials in the executive branch who have legislative and administrative responsibilities which affect the territory of Guam.

Mr. President, I ask unanimous consent that the resolution, a letter of transmittal from Mr. F. T. Romirez, Legislative Secretary to the Ninth Guam Legislature, and my reply be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

RESOLUTION 420

Resolution relative to commending the Honorable Antonio B. Won Pat for the successful completion of another year in office as Guam's Washington Representative, during which year much was accomplished on behalf of the people of Guam and he again demonstrated his amazing grasp of his responsibilities and his remarkable devotion to the public weal

Be it resolved by the Legislature of the Territory of Guam:

Whereas, the Honorable Antonio Borja Won Pat has recently completed his third year in office as Guam's Washington Representative, a post calling for the highest degree of expertise in intergovernmental relations as well as extraordinary devotion to duty and intestinal fortitude since the office is not officially recognized as a Federal representative position, being in the nature of a Tennessee Plan Delegate, and, thus, such office must lift itself by its own boot straps as it were, in getting Federal legislation for Guam and in representing Guam before the Federal agencies in our nation's capital; and

Whereas, under these circumstances, Representative Won Pat has done a remarkable job, gaining the confidence and respect not only of the Senators and Representatives to whom he must turn but also of the high Federal executive officials whose day-to-day decisions can so gravely affect Guam; and

Whereas, this rapport with high Federal officialdom has been obtained by the completely trustworthy information he always furnishes such officials, the diligence he always shows in preparing his case, and the reliance they have found that they can place on his word and on his advice; and

Whereas, in spite of the time he must necessarily spend in cultivating the sources of Federal power in Washington, Representative Won Pat never fails to put himself at the disposal of any local resident who visits Washington, somehow always finding the time to give personal attention to the needs of all who visit him in Washington or who correspond with him from elsewhere, it now becoming apparent to all, of every political persuasion that no better Washington Representative could have been elected than the Honorable Antonio Borja Won Pat; now therefore be it

Resolved, that in view of the foregoing, the Ninth Guam Legislature does hereby on behalf of the people of Guam, commend and applaud the Honorable Antonio Borja Won Pat, Guam's Washington Representative, for the successful completion of his third year in office, during which year he has again demonstrated his remarkable grasp of the onerous responsibilities of his office and the great skill with which he can manipulate the creaking and cumbersome Federal machinery on Guam's behalf; and be it further

Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Antonio Borja Won Pat, Guam's Washington Representative, to the Secretary of Interior, to the Chairman, Committee on Interior and Insular Affairs, United States House of Representatives, to the Chairman, Committee on Interior and Insular Affairs, United States Senate, and to the Governor of Guam.

Duly and regularly adopted on the 3d day of February, 1968.

W. D. L. FLORES,
*Vice-Speaker.*
F. T. RAMIREZ,
*Legislative Secretary.*

NINTH GUAM LEGISLATURE,
*Agana, Guam, Territory of Guam,*
*February 28, 1968.*

Senator HENRY M. JACKSON,
*Chairman, Senate Committee on Interior and Insular Affairs, Senate Office Building, Washington, D.C.*

DEAR SENATOR JACKSON: Transmitted herewith is Resolution No. 420, "Relative to commending the Honorable Antonio B. Won Pat for the successful completion of another year in office as Guam's Washington Representative, during which year much was accomplished on behalf of the people of Guam and he again demonstrated his amazing grasp of his responsibilities and his remarkable devotion to the public weal", duly and regularly adopted by the Legislature on February 3, 1968.

Sincerely yours,

F. T. RAMIREZ,
*Legislative Secretary.*

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MARCH 6, 1968.

Mr. F. T. RAMIREZ,
*Legislative Secretary,*
*Ninth Guam Legislature,*
*Agana, Guam.*

DEAR MR. RAMIREZ: Thank you for your letter of February 28 transmitting a copy of Resolution No. 420, adopted by the Ninth Guam Legislature on February 3, commending the Honorable Antonio B. Won Pat for the successful completion of another year as Guam's Washington Representative.

My Committee is well aware of Mr. Won Pat's outstanding work on behalf of the people of Guam, and I appreciate very much having this expression on the part of the Legislature.

Sincerely yours,

HENRY M. JACKSON,
*Chairman.*

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## SENATOR FRANK CARLSON

Mr. McGOVERN. When I opened up my copy of the Southwestern Miller this morning, Mr. President, I was delighted to find that the weekly feature by Herman Steen deals with the career of one of our colleagues, Senator FRANK CARLSON, of Kansas.

Mr. Steen has written a fine biographical sketch and a richly deserved tribute to "Mr. Kansas," which I know all of Senator CARLSON'S friends in and out of the Senate will read with pleasure.

I ask unanimous consent that the article be printed in the RECORD as a further tribute to our retiring colleague.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Southwestern Miller, Mar. 5, 1968]

SENATOR CARLSON, WHO RETIRES AT END OF YEAR AFTER THIRD OF CENTURY OF PUBLIC SERVICE, EXEMPLARY OF CITIZEN, OF FARM BACKGROUND—THE SENATOR WHO IS MR. KANSAS

(By Herman Steen)

Events of a commonplace nature sometimes have surprising consequences. For instance, there was a midsummer rainstorm in 1932 in Cloud county, Kansas, that seemed to have no importance beyond ending a dry spell and stopping field work for a day or so, yet this small incident propelled Frank Carlson into a distinguished public career of more than a third of a century.

Mr. Carlson, then a young farmer near Concordia, had an evening phone call from Alfred M. Landon, who had just been nominated for governor. Said the candidate, "Frank, can you meet me tomorrow in Topeka? I want you to take the state chairmanship. With a man in the petroleum business as the nominee, it is imperative to have a farmer in charge of the campaign. Others will raise the money and do most of the work, but I must have you at the head of things."

The man on the farm hesitated. He had just bowed out of the legislature after two terms because service there interfered with his business, and his campaign experience was limited to his home county. Finally he yielded in part to his friend's entreaties, saying, "Well, Alf, if it rains tonight I'll meet you, but if tomorrow is dry, I must stay home and put up hay."

Jupiter Pluvius opened up the spigot in the wee small hours, Mr. Carlson drove to the capital city and accepted the chairmanship and Mr. Landon was elected—the only Republican in the nation to defeat an incumbent governor that year. "It was a tough battle," Mr. Carlson recalled recently. "Times were hard in 1932 and a dollar was an important amount of money. Most of the time we had hardly enough in the treasury to buy postage stamps." Just before election, vast confusion was generated by a huge write-in campaign for a bizarre radio actor who was known to many as Goat-Gland Brinkley, and he polled about 175,000 votes and nearly bowled over both of the old parties.

### FIRST NAMED TO HOUSE IN 1934

Declining the new governor's offer of any state post he might desire, Mr. Carlson returned to his farm but his successful management of the 1932 campaign impelled his party's local leaders to slate him for Congress two years later. The outlook was bleak, for it was not a Republican year and his opponent was the only woman ever to go to Congress from Kansas. There was another hard campaign, but Frank Carlton won by about 2,700 plurality. He doubled that in 1936 and in four subsequent elections he increased his margin of victory each time.

### DEVELOPED PAY-AS-YOU-GO TAXES

Congressman Carlson served in the House 12 years. His principal committee assignments were to ways and means (taxation) and postal affairs, but he was also a leader in formulating the soil conservation program. Perhaps outstanding was his sponsorship of the pay-as-you-go plan on federal income taxes, to replace the old system of paying this year on last year's earnings, the result of which was that the taxpayer was always a year behind his tax liabilities. Upon the first try, his bill was defeated by nine votes, whereupon Speaker Sam Rayburn called the Kansan to one side and said, "Frank, your plan is right and must be adopted, but we Democrats can't permit a Republican to have the credit for this important step. Why don't you let one of our boys co-sponsor the bill?" Wise to the fine points of political finesse, Mr. Carlson adopted this advice and the bill soon became law.

### ELECTION AS GOVERNOR IN 1946

Two events converged during his sixth congressional term to take Mr. Carlson back to Kansas. The first was his daughter's decision to enroll at the University of Kansas and her parents' wish to live as near as possible to her. The other was the opportunity to become governor of Kansas. Both came to pass in 1946.

Governor Carlson's four years in Topeka were highlighted by a vast improvement in the state's mental health program, provision for the first time for state aid to elementary schools, addition of new buildings to state colleges, better pay for teachers and a comprehensive highway improvement plan. During his administration, he was chosen as chairman of the National Governor's Conference in 1949 and chairman of the Council of State Governments the next year.

### NOT TO RUN AGAIN AFTER 18 YEARS

Just before the end of his gubernatorial career, Mr. Carlson was elected to fill a vacancy in the U.S. Senate and to the succeeding six-year term. He was re-elected in 1956 and 1962 and thus is now in his eighteenth year in that great body. He is the only citizen of Kansas ever to be Congressman, Governor and United States Senator. He startled political circles by announcing recently that he would not be a candidate for a fourth term, although it is almost universally believed that he would easily be elected again.

### ACTIVE ROLE IN FARM LEGISLATION

When his party was in power, Senator Carlson was chairman of the post office and civil service committee. He has been on the important finance committee through most of his senatorial career, his earlier experience on the House tax-writing committee standing him in good stead. He is a member of the vital committee on foreign relations. He has taken an active part in shaping farm legislation, and on more than a few occasions his practical good sense has been most helpful to the agricultural trades in connection with various legislative proposals. He was a key adviser to President Eisenhower and a member of the Hoover Commission on Reorganization of the Executive Branch. He was a delegate to the United Nations in 1964, by appointment by President Johnson. He has been especially influential in tax and postal legislation. He is chairman of the committee that determines Republican committee assignments. He is in brief, an extremely industrious senator.

### TRIBUTE AS SHREWD AND BLUNT

In a recent editorial entitled "Frank" in Kansas' most prestigious newspaper, the *Emporia Gazette*, William L. White, son of the famous William Allen White, wrote of his 1931 legislative colleague. "The Current senior senator from Kansas was then exactly the same lean blue-eyed, pink-complexioned, tow-headed Swede that he is today; shrewd, blunt, sparing of speech but always saying clearly whatever needed to be said but with no swirls nor flourishes."

A miller who has known the senator many years recently told me. "Frank Carlson typifies this state as nobody else does and he is literally Mr. Kansas."

Senator Carlson has a long record of participation in religious affairs. When he was 16, he organized a community Sunday School in his home area and was superintendent of a Baptist Sunday School for 20 years. He established a Bible class in Washington that is still active. He originated the Presidential Prayer Breakfast in 1953 and has presided at all of the annual occasions.

### REMOTE CONTROL FARM OPERATOR

Such is the career on the national level of the one-time farm boy, the son of immigrant parents who went from Sweden to Kansas. He attended rural schools, business college and Kansas State University. He began farming in 1914 in a partnership with his father, and he ran the threshing rig that served the community. After military services in World War I, he farmed for himself on a corn, wheat and livestock place of 320 acres, now expanded to 600. Since 1935, he has operated this establishment by remote control. He told me a few days ago that this place in the valley of the Republican River produced more than 13,000 bushels of corn last year on 100 irrigated acres, adding that water is lifted but 30 feet from a thick gravel deposit.

Unsolicited have been honorary degrees from Kansas State University and eight other institutions. He is a board member of the Agriculture Hall of Fame, the Menninger Foundation and of the Private Colleges of Kansas. He was president of the Cloud County Farm Bureau.

Frank Carlson was Republican county chairman in the late 1920s and served in the Kansas legislature in 1929 and 1931. As chairman of the committee on assessment and taxation in the latter year, he drafted the state's

first income tax law, an action that would not usually be regarded as a surefire route for political preferment. "We presented the facts about the state's needs to the people," he said, "and they haven't seen fit to change the basic concepts in the law even after 37 years."

PROVERBIAL MEMORY FOR PEOPLE

The Carlson memory for faces and names—one of the most useful assets that a man in the political field can have—is proverbial. Once at a Kansas Wheat Field day, a dozen or more men from various parts of the state came up to shake hands, and I was witness to the fact that he called all by name and location. An admiring colleague who is himself no amateur in this art remarked, "I honestly believe that if Frank Carlson were to be taken blindfolded to any spot in Kansas, he would be able to identify half the men whom he would see when his sight was restored."

Frank and Alice Carlson will return to make their permanent home in Concordia soon after the end of the present senatorial session, he to preside over the operation of the farm and both to try to keep up with the progress of three grandchildren who with their father and mother live in Junction City. The Carlsons may not spend much time dwelling upon their past service to community, state and nation, nor upon the distinctions and honors that have been earned, but there are a lot of others who will long remember the fine type of citizenship that they represent.

## CORRUPTION IN SOUTH VIETNAM, IV—MUST OUR BOYS CONTINUE TO DIE TO PROTECT IT?

Mr. GRUENING. Mr. President, a U.S Government team, studying corruption in South Vietnam, has come up with a hard-hitting frank report on the widespread dishonesty among South Vietnamese officials:

The diversion of such a great percentage of the total Government effort to lining individual pockets, the report finds, instead of the devotion of all energies to fighting the war and building the nation, is aggravating this war and is causing fighting men, American as well as Vietnamese, to suffer unnecessary death at the very time this is being written and read.

The report by these high level, experienced, responsible American officials is a constructive report and does not content itself merely in pointing out instances of corruption in South Vietnam but makes eight positive recommendations for steps which could be taken to remedy the situation.

Some of the steps recommended are:

1. Stop treating corruption as a delicate unmentionable subject. Openly acknowledge that it exists . . .

2. Create an anti-corruption office within the U.S. Mission. Invite the GVN to create a counterpart organization . . .

3. Confront the GVN with examples as fast and as often as they develop. Demand corrective action and force it by actual exposure of the individuals involved. . . .

4. Abandon . . . the fiction that corruption is the special field of lower and middle echelon government officials . . . place the blame squarely where it belongs—right at the top. . . .

5. Eliminate the root of corruption by making it possible for GVN employees to secure a real living wage. . . .

6. . . . announce to everyone that "the party is over and the game will be played straight from now on".

7. The U.S. must take the initiative in this and . . must continue with it. . . .

8. . . . don't make this a classified subject and thereby bury it. . . .

I ask unanimous consent that the entire report, except for such portions as were deleted to protect the source of the report, be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CORRUPTION IN SOUTH VIETNAM

Corruption in Vietnam is a subject of which much has been written—but very rarely in the right places. A great deal more has been said about it—but again, not necessarily in the right places.

It is an ever present fact of life, permeating all echelons of government and society, corroding the vitality of this nation, eroding the framework of government, and unnecessarily prolonging the war. Unless it is substantially reduced on a broad scale, and very soon at that, there are serious doubts that this war can ever be really "won".

Despite four years of observation of a typically corruption-ridden agency of the GVN, I still could take very few persons into a regular court of law with the solid evidence I possess and stand much of a chance of convicting them on that evidence. The institution of corruption is so much a built-in part of the government processes that it is shielded by its very pervasiveness. It is so much a part of things that one can't separate "honest" actions from "dishonest" ones.

*Just what is corruption in Vietnam?* From my personal observation, it is the following:

The personnel official who can't place a qualified applicant in an open position until a "fee" is paid;

The petty official who can't "find" an importer's documents for processing until a fee improves his finding technique;

The clerk who places a merchant's release documents for vitally needed cargo at the bottom of the pile to be worked on, until a fee secures a place on the top of the pile;

The Customs inspector who, for a suitable gratuity, passes dutiable merchandise as free "personal effects";

The Customs Examiner who determines that a small percentage of actual dutiable value is sufficient, or who classifies merchandise in a category which gives the importer a favorable rate of duty;

The Immigration official who can find all kinds of things wrong with a person's passport and departure documents until a fee is paid, or who can provide an unwanted criminal with an indefinite stay in Vietnam for a higher fee;

The Court officials who can keep a person locked up for months on technical, trumped-up charges until a payoff is made, or who can secure the release of a tried and convicted criminal upon a similar, but higher, payoff;

The official of a score of services who will permit any barrier to be breached for the payment of a fee;

The Public Health doctor who will properly endorse your "shot" record without getting within three feet of you with a needle;

The high officials, and some not so high, who arrange their government affairs so that official transactions redound to their personal benefit;

The very high officials who condone, and engage in smuggling, not only of dutiable merchandise, but undercut the nation's economy by smuggling gold and worst of all, that unmitigated evil—opium and other narcotics;

The Police officials whose "check points" are synonymous with "shakedown points";

The high government official who advises his lower echelons of employees of the monthly "kick-in" that he requires from each of them;

The combination of border province chiefs, district chiefs, police chiefs, Customs chiefs, and whoever else can get into the act, who permit multiple millions of piastres of livestock, rice and other foodstuffs to be transported across the Cambodian border into Vietnam with the payment of no taxes except to the officials involved who subsequently certify all these to be products of Vietnamese origin;

It is the government official who refuses to approve AID overseas training participants until he has received a personal fee from the prospective participant;

It is the "resources control" official who must at great length search and inspect a shipment of fish or other perishable commodities en route to the Saigon Market with subsequent spoilage or market loss, unless a suitable fee expedites his inspection; and

The Customs official who sells to the highest bidder the privilege of holding down for a specified time the position where the graft and loot possibilities are the greatest.

The list could go on indefinitely. The above few examples give the general idea and list only those situations with which I am personally familiar. I am sure that one person would have a full time occupation just cataloguing all the well-established as well as the new techniques which are being constantly developed in the corruption field.

Viewed across the board, the picture is appalling; it is frightening enough to make one have grave doubts that there is any possibility of ever achieving any reasonable degree of honesty and integrity in Vietnamese officialdom.

Something can be done, but it must be done fast before the whole country and our efforts on its behalf go down the drain. No weak-kneed or pussyfooting measure will have the least effect. Something has to be done on a heroic scale and the U.S. side of the joint effort must take the initiative. The question is—Just what must be and can be done?

In order to answer the question of what to do about corruption, we must first answer the question—Why corruption?

Corruption in Vietnam essentially has an economic basis; it is an institution so thoroughly enmeshed in the roots of government that it now has a historical basis.

Initially, in Vietnam, it was nurtured in the very fertile and understandable soil of economic deprivation of government employees. All people who work for a living and whose duties have any relationship to law enforcement and/or the collection or flow of public resources must "be paid enough so that they can afford to be honest".

In Vietnam, this apparently has never been done. The official salaries which are paid to Customs and Tax officials, the chief revenue-gatherers of the nation, are simply a farce. Under present cost of living factors, no . . . officer could have his family live on his pay at anything above a minimal subsistence level with no resources to meet any emergencies.

It seems that there is a tradition of low pay to any and all government workers—with an attendant implication that a man in such a favored position should be able to take care of himself—and if he didn't, no one applauded or sympathized with him. Further, the wide spread acceptance of the time honored French dictum of "valeur d'etat n'est pas valeur"—stealing from the state is not stealing—makes for a very flexible code of ethics with respect to the integrity of public officials.

It is interesting to discover that there *is* a code of ethics with respect to a public officer taking money, but such code does not embody the typical western distinction of "honesty" and "dishonesty". The concept of "honesty" is a relative one—an "honest" man is one who lines his pockets up to a certain reasonable point, and then is satisfied with what he has gotten. He takes a little and makes no attempt to "kill the

goose that lays the golden egg". The "dishonest" man, and he is assuredly looked down upon, is he who in his greed for money, has cast aside the fairly generally accepted standards of reasonableness and has, in essence, made a pig of himself.

Unfortunately, during the past several years when money has been pouring into Vietnam on a scale never conceived of before, most of the traditional restraints and inhibitions have fallen by the wayside. Anyone in a position of even minor authority has not needed to be overly intelligent in order to find ways of getting rich and only too many have gone that route. The former purely economic necessity of picking up a few piastres from each transaction in order to augment an inadequate income has now become a fixed way of life with the take in each case on a much bigger scale.

The economic necessities still exist, however. The pay of government workers has risen a little in the past four years, but the cost of living has zoomed upward by a much higher percentage. Persons who could live modestly on their salaries four years ago would be forced on a starvation diet now if they did not augment their incomes.

The Vietnamese live by a positive scale of loyalties. Primary loyalty is to oneself and to one's immediate family. Very few Vietnamese have such a devotion to the abstract concept of rigid honesty as we define it, that they will permit their wives and children to suffer deprivation in housing, food, clothing, medical attention, education, etc., as a consequence of religiously adhering to a "no gratuity" standard. This is particularly so when . . . acceptance of gratuities and bribes is the accepted state of affairs and the rare "honest" man sees his colleagues on all sides of him securing sufficient money to take good care of their families while his own family barely exists. The lack of incentive to be honest is further emphasized in the rare cases when a "dishonest" official is accused and found guilty and suffers practically no punishment. When such an individual's corruption is so flagrant that it can no longer be ignored, his punishment usually consists of removal from his present lucrative job to another where the money-making potentials are not so obvious. The temporary transfer, and its duration, has a fixed scale according to the degree of the offense, and a certain loss of face, because he permitted himself to be caught—are the only punishments that a crooked official suffers except in very rare cases. In one or two years at most, all is forgotten and he is back again in a lucrative position, at his same tricks, and undoubtedly better equipped to cover his dealings than he previously was.

Given the existent conditions, it is a wonder actually that *any* . . . officer remains honest in the accepted sense. Some very few do, but at the cost of extreme personal economy, moonlighting, and having their wives work. This latter element causes some loss of face also, and moreover, such an individual is not popular with the remainder of his colleagues. They simply do not trust him as he is not "one of the boys" and they frequently gang up to get rid of him.

The percentage of those who have gone along with the crowd has increased in recent years. There are many . . . officers whom I personally knew three years ago to be honest and who were living in shacks and riding bicycles to work, who now live quite well in comfortable houses and drive to work in Toyotas. They did not achieve this change of living standards on their salaries and those who talk freely to me frankly acknowledge it.

To emphasize the ridiculous aspect of the salary situation, consider the following:

One fairly high official who supervises a force of several hundred employees and, who is responsible for the collection of the greater part of the national . . . revenues, points out that his salary is equivalent to approximately one hundred U.S. dollars per month in local buying powers. If he were to take his car—a Mustang, incidentally, and paint the word "Taxi" on its side, he could by this method command an income of at least four hundred a month. This gentleman wears fine clothes, eats good food, drinks Scotch, and lives in a plush apartment. Obviously, he is not doing that on one hundred dollars a month.

Compounding the problem in recent years are the vast sums of money floating around Vietnam. In prior days, payoffs . . . had a fairly fixed reasonable scale . . . . Since the U.S. has been pouring vast sums of money into Vietnam, with distressingly few restraints or controls, the opportunities for cutting oneself a piece of it have been all too prevalent. Consequently, the old standards have gone by the board as officials across the spectrum of government have moved into "get their share" while the getting is good.

Officers innately accept their "right" to their traditional "extra income", but in the context of local economics in the past few years, they have adopted a steeply graduated scale of values.

In discussing this problem with me recently, one of the more "reasonable", and certainly knowledgeable, . . . in all seriousness voiced the opinion that the Customs Director General, for example, should be entitled, by virtue of his position and its requirements, to receive somewhere between one and two million extra piastres annually. His position also, of course, was that all other Customs officers should be able to receive extra income in an amount proportionate to the importance of their positions. These remarks were made in the context of his basic criticisms of the Director General for having received a lot more than the above amount, and for going overboard in his acquisitiveness. In short, in this man's opinion, the Director General would have been an "honest" man for all practical purposes, had he contented himself with a million or so extra piastres a year and, of course, had he not been so obvious about it. He was "dishonest" according to this man's standards because he was gaining far more than the million and was not being guileful or slick about it.

We Americans bear a considerable burden of responsibility for the extent to which corruption has mushroomed and become such a cancer in the GVN. We have, quite unrealistically, tended to view Vietnamese officialdom in the same context and by the same standards as we normally view the officials of a developed Western nation with whom we have governmental and business contacts; we view them as being in general, dedicated, patriotic-minded individuals, sufficient in their own individual resources, committed to giving their country and government mature and selfless service, and constituting a corps of officials in which bribery and graft is the exception rather than the rule. While the above is something to be hoped for, and every effort should be bent towards making it an eventual reality, such a state of affairs does not yet exist.

We simply have not faced up to the fact that in Vietnam, public office has always been synonymous with personal privilege for the officeholder; to the fact that the concept of dedicated public service on the part of government officials as we understand it and expect it of our own public officials, simply does not exist; to the fact that no well-grounded top-level corps of Vietnamese public service officials of whatever stripe—honest or dishonest—has yet been created in this country.

Instead, we are dealing with young men, mostly; men who have not lived long enough to achieve the required degree of maturity to capably and conscientiously discharge the vast responsibilities of both fighting a war and building a nation; a group which more and more is coming out of the military—a category which according to basic Vietnamese Confucian traditions, is low class and entitled to no respect; a group which has become generally insufferable in the arrogance of the power that they have unexpectedly inherited; a group which, from their individual legitimate salaries, does not individually possess the equivalent of a newsboy's income at home.

We expose these men to the luxuries of our standard of living in our social contacts with them and, probably without thinking about it, we expect reciprocal arrangements from them; we treat them as though we have the fullest confidence in their maturity and integrity; we make available to their disposition and manipulation, multiple millions in funds and commodities with a minimum of safeguards and controls; we rather genteelly cluck like mother hens and engage in some mild wrist-tapping when flagrant abuses in joint programs using U.S.-supplied funds, come to light; we fail to talk straight from the shoulder to them on the subject of corruption and our position with respect to it, in fact, we frequently act as though we do not know of its existence; and then we forever act surprised and horrified that corruption has taken hold and riddled the structure of government to the extent that it has.

WHAT SHOULD WE DO?

We must face up to the fact that the corruption problem exists. We must stop burying our heads in sand like ostriches whenever we come face-to-face with the problem.

The question of corruption is the most serious that we now face and it is imperative that we recognize its deadly importance.

Its existence, and the increasing knowledge thereof, is probably the single most important reason for the steady erosion of American public confidence in and support for our overall effort in Vietnam.

The diversion of such a great percentage of the total Government effort to lining individual pockets, instead of the devotion of all energies to fighting the war and building the nation, is aggravating this war and is causing fighting men, American as well as Vietnamese, to suffer unnecessary death at the very time this is being written and read.

Unlike all other wars, this one is not being fought to take and hold real estate. That piece of land which we buy with much blood today becomes the enemy's tomorrow when we move out.

The vital terrain of this war is truly the hearts and minds of the people, and we will not have won this struggle until we have staked out and are holding fast in that area.

To take their hearts and minds, we must somehow inculcate in the people a sense of confidence in their government, in its policies, and its allies—such as will give them something tangible to build their hopes upon, and to provide a believeable alternative to the very real and effective Communist propaganda and indoctrination.

This vital terrain absolutely cannot be taken as long as the people view the official representatives of their government in the light they now do. The average Vietnamese now regards the visible representatives of his government's existence—the policeman, the Customs official, the military officer, the average fonctionnaire—with a varying combination of emotions depending upon the impact that a particular official has upon him personally, but the ingredients are the same in all too many cases—contempt, fear, hatred and loathing.

As long as the average Vietnamese's reactions to his governments representatives are compounded of these emotions, we will always have a Viet Cong and all that goes with it. Under the circumstances, one cannot blame the people for choosing the Viet Cong in preference to their central government. The situation will not change until

the people get decent and upright treatment from government representatives whom they can trust and respect.

POSITIVE STEPS THAT CAN BE TAKEN

1. Stop treating corruption as a delicate, unmentionable subject. Openly acknowledge that it exists and openly state that the U.S. proposes to do something about it. The politicians, the grafters, and all the generally slimy people whose toes will be stepped on will make a great outcry. The little people, across the board, will applaud the action.

2. Create an anti-corruption office within the U.S. Mission. Invite the GVN to create a counterpart organization. Publicly announce its existence and officially announce it to the GVN. Invite all persons wishing to report incidents of corruption to freely communicate with the office. Offer rewards to non-Americans for information of substance. Shed the light of day on the situation by making confirmed data available to the press.

3. Confront the GVN with examples as fast and as often as they develop. Demand corrective action and force it by actual exposure of individuals concerned and withdrawal of U.S. support of any program involved. Insist that law enforcement and revenue collecting officials go to jail and be publicly disgraced for involvement in graft and corruption.

4. Abandon our present devotion to the fiction that corruption is the special field of lower and middle echelon government officials. Instead place the blame squarely where it belongs—right at the top. We cannot expect lower echelons to cease their comparatively petty larceny peculations when they know of the wholesale massive takes among the top echelons. As one official explained his concept of such corrective action—when the house leaks during the rain you don't fix the floor or the side walls first, you start at the top with the roof. Display no hesitation in naming the political figures who control the plush and expensive bars and night clubs; name the prominent persons whose names are linked to gold smuggling and opium dealing; publicize those who have "acquired" tracts of land just prior to its devotion to military or development purposes; point out the generals who are busy building multiple hotels and fancy villas at Dalat and Vung Tau and such places.

5. Eliminate the root of corruption by making it possible for GVN employees to secure a real living wage. One GVN Minister with whom I discussed this suggested the way to accomplish this was to fire half of all GVN employees and pay the remainder double their present salaries. This is oversimplification but is on the right track. The GVN has dozens of unneeded offices and thousands of unneeded employees in its swollen bureacracy. Some heroic measures could be taken to reduce numbers, demand adequate performance from those remaining, and pay them accordingly.

6. The campaign for correction should start with a program to announce to everyone that "the party is over and the game will be played straight from now on" and that except in flagrant cases involving higher echelons, no attempt will be made to dig into past history of anyone who henceforth toes the line.

7. The U.S. must take the initiative in this and, once having started, must continue with it. Vietnamese Government officials are so involved that very few have hands sufficiently clean that they can make an immediate major independent contribution. In the starting phase at least, it will be necessary for the U.S. to take the onus of such criticism as this program will generate. Vietnamese officials, who have themselves been involved in corrupt practices, will be in an indefensible position if they initially impose disciplinary measures on colleagues and subordinates who are well aware of the officials' own past shortcomings.

8. Above all, don't make this a classified subject and thereby bury it. Shed the light of day upon corruption to the fullest degree possible. On this subject, every single last Vietnamese is vitally involved and both he and his American counterpart have a definite "need to know".

## FORMER SUPREME COURT JUSTICE TOM CLARK APPLIES WISDOM OF HIGH TRIBUNAL TO TASK OF PRESIDENT'S COMMISSION ON HUMAN RIGHTS PROGRAM

Mr. PROXMIRE. Mr. President, the practical wisdom of former Supreme Court Justice Thomas C. Clark is now being applied to the work of the President's Commission for the Observance of Human Rights Year 1968.

I am particularly pleased with the selection of this distinguished American to serve on the Commission because Tom Clark always traveled a firm course of responsibility in all his endeavors.

Justice Clark's dedicated service to his country and profession is continuing as strongly, although he retired from the Supreme Court Bench on June 12, 1967.

His invaluable contributions on this high tribunal began in 1949 with his appointment by President Truman. Justice Clark brought to that lofty pillar of law his experience as Attorney General of the United States. Prior to that, he had been Assistant Attorney General in Charge of Antitrust Division in the Justice Department from 1943 to 1945.

The Justice, who also served as civil district attorney in Dallas County, Tex., received his A.B. and LL. B. degrees from the University of Texas.

His appointment to the President's Commission for the Observance of Human Rights Year certainly is deserving of commendation, and our support in focusing the attention of all Americans on the need for ratification of the human rights conventions.

## STRONG SUPPORT FOR THE PRESIDENT'S PROPOSALS ON ENVIRONMENTAL HEALTH

Mr. BAYH. Mr. President, President Johnson has recently proposed a comprehensive program to deal with one of the Nation's most urgent domestic problems: the ever-increasing problem of pollution hazards on our environment.

In his message to Congress on environmental health, the President has sounded the alarm about the grave threats to environment posed by air pollution. There can be no doubt that the quality of our environment has been deteriorating rapidly, and that the health and welfare of our citizens is imminently threatened. Concerned citizens are now struggling for the right to escape their congested, polluted environment. It is our responsibility to grant them that right.

Since 1963, when Congress passed the Clean Air Act, we have waged an unceasing battle against the contamination of our atmosphere. Last year, with the unanimous passage of the Air Quality Act, we acknowledged that the fight against air pollution was a major battle to be fought on all fronts, using every weapon of modern technology available and every dollar which our domestic economy would permit. President Johnson's message reminds us that we cannot afford to falter or withdraw from that battle. Every segment of our society, government, industry, and private citizens, must work together to insure that we will be victorious.

I urge my colleagues to examine carefully the President's message and to act on it with speed and conviction. Let us appropriate the funds requested promptly, for at this stage in the battle any delay could be fatal to the lives of our citizens and to the very quality of our environment.

## ADDRESS BY M. CECIL MACKEY, ASSISTANT SECRETARY FOR POLICY DEVELOPMENT, DEPARTMENT OF TRANSPORTATION, AT ENGINEERS' DAY ASSEMBLY, DREXEL INSTITUTE

Mr. MAGNUSON. Mr. President, last month, M. Cecil Mackey, Assistant Secretary for Policy Development of the Department of Transportation, delivered an excellent address to the 19th annual Engineers' Day assembly at Drexel University in Philadelphia.

Secretary Mackey spoke on man's ability—or lack of it to date—to adopt technology to his social requirements. As he so eloquently pointed out, the genius of man has been able to develop an enormous array of inventions whose capacity for social good or social disaster is without precedent.

Using the automobile as an example to illustrate his point, Secretary Mackey suggested that a balance sheet be put together showing the benefits of auto transportation on the one side and the total economic and social costs on the other side. For quite some time now we have been concerned with identifying and reducing the economic costs of our technological developments. Too long, however, have we ignored the social costs, which are often difficult to identify and even more difficult to compute. But if we could reduce the cost in human lives caused by auto accidents, the costs of traffic control and law enforcement, the costs of highway construction and maintenance, the cost of obtaining adequate compensation for personal injury and property damage, and the costs resulting from air pollution, then the net benefits to be derived from the automobile would be greatly enhanced. The same can be said for many other products of our advanced technology.

The Department of Transportation and the Committee on Commerce are working together to reduce the social costs of some of our technology, for example, in our hearings on auto accident compensation and insurance beginning next week. All of us should be concerned as Secretary Mackey shows us with this matter of accounting because as more time passes without cost reduction, the greater the costs will become. I ask unanimous consent that Assistant Secretary Mackey's timely address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF M. CECIL MACKEY, ASSISTANT SECRETARY OF TRANSPORTATION FOR POLICY DEVELOPMENT, PREPARED FOR DELIVERY AT THE 19TH ANNUAL ENGINEERS' DAY ASSEMBLY, DREXEL UNIVERSITY, PHILADELPHIA, PA., FEBRUARY 20, 1968

In his 1968 State of the Union address and in his Consumer Message to the Congress earlier this month President Johnson has once again directed our attention to the importance of safeguarding the individual's interest in our affluent but increasingly impersonal and technologically-oriented society. The question before us, he said, is not "How can we achieve abundance?" but "How shall we use our abundance?" The underlying problem is not new, of course, but in proclaiming the citizen's basic rights—particularly his "right to safety"—the President has placed the individual in the forefront of government attention.

Man's ability to adapt technology to his social requirements—to harness his engineering innovations to the human spirit—remains one of the great challenges of civilization. Lewis Mumford has written eloquently, if perhaps pessimistically, about this encounter between man and the machine. What we are talking about today, therefore, is not a new issue—it has been with us at lease since our prehistoric ancestors first learned how to make fire.

But the gravity of the challenge—its complexity and implications—seems to me to be greater today than ever before. The genius of the scientist, the pragmatic brilliance of the engineer, and the great institutional innovations of our time have combined to put at our disposal an enormous array of inventions whose capacity for social good or social disaster is without precedent. Today we can do more—travel farther—learn infinitely more about the world around us—and do all of this with fewer resources—than at any time in this planet's history. Rightly, and proudly, we can claim to be wizards of science and engineering. But we have yet to prove our capacity to make science man's servant rather than his master.

The challenge of technology to the human spirit is no better illustrated than by transportation, and especially that wonderful thing, the automobile. The automobile, with its speed, flexibility, and susceptibility to mass production has perhaps done more to affect our lives than any other innovation. If man's first love affair took place in the Garden of Eden, his second certainly began when Henry Ford created the Model T and put it within the economic reach of most American families.

In many respects, the automobile is the backbone of the U.S. economy. This year Americans will spend more than $70 billion for the purchase and use of their passenger cars. More than $30 billion alone will be invested in new autos, another $20 billion will be spent for gasoline and oil, and $12 billion in repairs and purchases of accessories. In all, autos account for about a tenth of our $800 billion annual gross national product. Our dollar expenditures for goods and services connected with the automobile alone exceed the entire GNP of most countries of the world—more than the GNP of Belgium, the Netherlands, and Italy combined.

Too often, however, we are so dazzled by the economic and transport benefits of the automobile that we fail to recognize its adverse effects. Consider these factors:

This year more than 50,000 people will be killed in more than 10 million auto accidents. About 4.5 million people will sustain injury. More than a million will be disabled.

As much as 20% of all annual expenditures for police activity is related essentially to traffic control and routine enforcement of relatively minor traffic violations.

An estimated 50% of the time and costs of operation of our court system is directly related, in one way or another, to motor vehicle operations.

Of an estimated 400,000 tons of waste matter poured into the air over the U.S. every day, just about one-half emanates from the automobile. The social cost of the resulting air pollution is shockingly high. Not only is there some considerable basis for attributing deaths and illness to air pollution, one study has concluded that in densely populated urban areas the added cost of living can work out to as much as $800 a year for a family.

One would almost think that automobiles eat concrete and asphalt. Certainly they have a large appetite for new highways. Over the last dozen years we have invested $40 billion in the interstate highway program. This year, Federal, State and local governments will spend approximately $15 billion on the construction and maintenance of streets and highways. The Federal-aid highway program alone will exceed $4 billion.

The actual cost of construction of new highways—astounding though it may be—represents only part of the actual costs. In addition to construction costs, one must reckon with the costs of dislocation of families who must be moved to clear the right-of-way—with encroachment, and sometimes destruction, of parks and recreational facilities—with the obliteration of historic sites. These costs, though difficult to reckon, are just as real, just as important, as the costs of steel and concrete which go into the freeways.

It would be extremely interesting if we could put together a balance sheet showing the benefits of auto transportation on the one side and the total economic and social costs on the other side. Unfortunately, we do not have such a balance sheet. We have, in fact, been far too long in beginning to identify all the items that belong on such a ledger. On the basis of the evidence which is readily available, however, it is obvious that we have done a very poor job to date in harmonizing the technology of the automobile with the total needs of our society, all things considered.

We have simply failed to develop an efficient and reliable means of identifying the total social costs of our technology and making an appropriate assignment of its burdens to those who are otherwise inclined only to reap the benefits.

While we still have a long way to go in adapting technology to society, there are nevertheless signs in transportation that suggest the beginnings of an awareness that the overhead or social costs must be placed on the balance. Just two years ago we were adding millions of automobiles to our streets with practically no attention to their safety features. There was no systematic analysis of auto accidents, their causes, or effects on those involved. As a society we had virtually closed our eyes to the human toll taken in auto accidents.

Today much of this has changed. The Department of Transportation, exercising authority conferred by the National Traffic and Motor Vehicle Safety Act—signed into law by President Johnson on September 9, 1966—is systematically scrutinizing autos and auto accidents with a view to reducing their number and the severity of human injury. Much research is underway, but already there are encouraging signs of real progress—progress that can be measured in terms of lives saved and serious injuries avoided.

Let me give you an example. The collapsible steering wheel is now required on new cars. It is a comparatively simple mechanical innovation. Its cost is not great. Yet preliminary statistical evidence tends to show that if every auto were equipped with a collapsible steering wheel, deaths in auto accidents would be reduced by one-fourth. Think what this means—of the 53,000 persons killed last year, more than 13,000 could have been saved! Just one more illustration: New required anti-penetration windshields, which began appearing in U.S.-built automobiles in 1966, can reduce severe facial lacerations by 80%.

In all, the Department of Transportation has promulgated 23 auto safety regulations. New windshields, seat belts and shoulder harnesses, and built-in head supports, combined with modifications in the design of the interior of new cars, will greatly reduce death and injury in auto accidents. This will help avoid some of the large social costs attributable to auto transportation. Clearly, we are making some meaningful progress.

Much more can be done, however, to cut human loss associated with auto accidents. A systems view of accidents must take into account at least two other principal factors.

First, through improved highway design, better driver education, and improved licensing procedures, many accidents can be avoided by eliminating certain accident-related causes.

Second, recognizing that whatever we do motor vehicle accident can never be completely prevented, we must be certain that we have a fair and efficient means for providing compensation to the victims. Cars will collide; people will be injured and killed. To provide compensation when these tragic events occur, we have traditionally relied on a system of insurance which places heavy emphasis on negligence, litigation and determination of fault. It is now a serious question, however, whether this type of insurance system is adequately attuned to the demands of our auto-oriented society, where 100 million vehicles are operated nearly a trillion miles a year over the nation's streets and highways. Recognizing this is an important issue of national concern, President Johnson has recently asked the Congress for authorization for a comprehensive study led by the Department of Transportation of the entire motor vehicle accident compensation system.

The social repercussions of the automobile involve more than accidents and their resulting death and injury. We must also take into account the effect of the auto and its infra-structure on our environment. Significantly, Congress, in creating the Department last year, directed that "special effort be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl reservations, and historic sites."

In many respects this is historic legislation. For what may be the first time Congress indicated that as much attention should be given to environmental "cost" as the actual dollar costs involved in the development of transportation facilities. The Secretary of Transportation, for example, is admonished not to approve any program or project—such as a new highway—which would require the use of public park or recreational land or an historic site "unless there is no feasible and prudent alternative to the use of such land, and such program includes all possible planning to minimize" the resulting harm. The character of this legislative directive, as you can appreciate, is such that it leaves a great deal of responsibility in the Secretary of Transportation. Establishment of appropriate criteria and their sound implementation represent difficult and, in many ways, unique challenges. The Department is actively engaged with this entire problem and important steps have already been taken to carry Congress' directive into action.

From a broader standpoint, it is vital to recognize that these legislative provisions embody a recognition that transportation systems embody "costs" which heretofore have not been directly reflected in our pricing mechanism. Just as with auto accidents and injuries, the loss of valuable recreational areas and the disruption of communities have their hidden costs too.

Recent efforts to require explicit recognition of social costs—creative and substantial though they are—go only part of the way in establishing a mechanism for dealing with the social attributes of technology. Again, let me use the automobile as a case for illustration. Earlier I noted that the collapsible steering wheel—now required on new cars—can seemingly reduce auto accident deaths by 25 percent. Seat belts, shoulder harnesses, and other devices and changes in design can also help reduce injuries and death.

What is striking is that this kind of mechanical adaptation does not involve any radically new innovations. The collapsible steering wheel was well known in the auto industry 40 years ago. It could probably have been installed in the 1920's at a very small addition in cost. If it had been, it would have saved tens of thousands of lives.

Why, then, was it not introduced by the automobile industry? Why did it take a Ralph Nader to bring auto safety into the spotlight of public attention? Why have many important safety equipment items been installed by auto manufacturers only in response to mandatory Federal standards? The major auto companies—as you well know—have been quite successful in financial terms; one might even say richly endowed. Their sales and their profits have permitted them to employ thousands of scientists and engineers. It would hardly have been beyond this key industry's economic or technical capability to develop and offer to the public—on its own initiative—safer automobiles and improved safety equipment. Why, then, has so little been done in this important area and so much attention concentrated on the development of new color schemes, the contour of body lines, the design of more powerful engines, and the perfection of such marvelous contributions to posterity as the lighted ashtray? To this haunting question I have no simple answer. But there is an even more important question—one that looks to the future rather than the past: Has the automobile industry now made a total commitment to safety? Has the industry recognized and accepted the full responsibility that must be an integral part of providing the nation with the mobility it wants? And finally, has there been a recognition of the fact that the automobile and the highway must be viewed in the broadest context of its environmental impact?

Unfortunately the answers are not as encouraging as we might hope. Institutional rigidities impede progress and attitudes change too slowly—despite a Congressional mandate and strong Presidential leadership.

The total costs of the automobile—the cost of accidents, the full cost of highway construction, the cost of land used for freeways rather than for recreation, the cost of air pollution— must ultimately be reflected in the pricing mechanism. This will give all the industries that together are responsible for our motor vehicle transportation system stronger incentive to focus much more of their attention on steps which can be taken to reduce the social costs of their products.

## CONTROL OF AIR AND WATER POLLUTION

Mr. MURPHY. Mr. President, a good deal of attention has been given to the need for controlling air and water pollution. The need is tremendous. This Congress and earlier Congresses have faced up to that need by enacting legislation that requires the States to establish pollution abatement and control programs that will assure the people of this Nation a livable environment. I have coauthored and strongly supported this legislation. To me, pollution, both air and water, is one of the Nation's most serious domestic problems.

One of the problems that has plagued all of us, and particularly the members of the Senate Committee on Public Works, is how to finance the cost of pollution control. The members of the Committee on Public Works have recognized that, to be successful, a partnership effort by the public, industry, and governments at all levels will be needed to carry out the programs and to finance them.

The Federal Water Pollution Control Administration has recently reported in volume I of the "Cost of Clean Water" that municipal and industrial water cleanup will cost between $26 and $29 billion over the next 5 years. These are staggering figures, particularly in light of today's difficult economic conditions, and it is an absolute necessity that we allocate our resources wisely and properly. We cannot afford to curtail our activities in pursuing the programs needed to assure a desirable environmental quality. Nor can we afford to waste large sums of money on programs that are not beneficial to our people. The President is expected to make recommendations to Congress on a program that may give incentives to industry in financing the cost of pollution control efforts. I am eager to see exactly what the President will be recommending.

However, before we can intelligently make public policy on the type of incentive program that should be adopted, we need to know about the State standards that are being approved. Senator MUSKIE has announced that oversight hearings will be held later this year to see what progress is being made with our water pollution control programs. I look forward to those hearings because there are many questions that need to be answered.

Several weeks ago, at the annual meeting of the Association of State and Interstate Water Pollution Control Administrators, in Hartford, Conn., James G. Watt, secretary to the Natural Resources Committee of the National Chamber of Commerce, spoke on the subject matter of incentives to industry for waste treatment facilities. Mr. Watt suggests that—

The best incentives that could be provided would be the establishment of meaningful and reasonable water quality standards and the adoption of a realistic timetable for their implementation.

Mr. Watt calls for a realistic program—not Federal handouts. He goes on to say, however, that if the Federal Water Pollution Control Administration demands that the States require "treatment for treatment sake or in effect a national effluent standard" then industry will be compelled to ask for a substantial increase in the tax credits allowed for pollution control facilities. I am hopeful that it will be clearly established at our oversight hearings that a reasonable program is being developed.

Because of the importance of this subject, I ask unanimous consent to have printed in the RECORD the speech given by Mr. Watt of the national chamber, followed by an exchange of correspondence that Mr. Watt had with former Assistant Secretary of the Interior Frank C. Di Luzio.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

TAX INCENTIVES FOR INDUSTRIAL WASTE TREATMENT FACILITIES

(By James G. Watt)[1]

Present water pollution control programs make wise corporate decisions extremely difficult. Before an executive can commit the resources of a corporation for waste treatment facilities, he needs to know how much water treatment is necessary to assure the desired water quality and how soon the facilities must be in operation. Can he be sure of what the government requirements will be tomorrow, next year, or two years from now? He needs to know the various alternatives available for financing the pollution control and abatement facilities. Can he anticipate what financial "benefits" might be made available if he were to wait for Congress to act?

Frustrating questions such as these make today's program timely and valuable. I appreciate the opportunity to discuss with you the question of "Tax Incentives for Industrial Waste Treatment Facilities."

The best incentives that could be provided would be the establishment of meaningful and reasonable water quality standards and the adoption of a realistic timetable for their implementation. These are the objectives of the Water Quality Control Act of 1965 as set forth in the Congressional Committee reports and the floor debate which accompanied the passage of the Act. Unfortunately, recent evidence suggests some state and interstate water quality standards approved by the Secretary of Interior include requirements which would bypass the water quality criteria defined at the public hearings.

When Congress enacted the Water Quality Act in 1965, it delegated to the Secretary extensive authority to implement a program that would assure the adoption of meaningful and effective state water quality control programs. The purpose of these state programs is to "enhance the quality and value" of our interstate water resources for the benefit of the "public health and welfare." It was the quality of the waters of the nation that was of concern to the members of Congress. Unfortunately, it appears as if the Secretary of Interior is more interested in requiring secondary treatment of all waste waters, as a matter of policy, irrespective of quality requirements.

In many instances, the difference between primary and secondary treatment will not be significant to the receiving waters. In such cases, it is poor public policy to require the additional cost of secondary treatment. Treatment for treatment's sake is a luxury we cannot afford when we are confronted with a war in Viet Nam, slums, unemployment, and a multitude of domestic problems, plus a hungry world.

On August 9, 1967, Secretary Udall appeared before the Senate Public Works' Subcommittee on Air and Water Pollution to relate the progress of the federal water pollution control effort. In discussing the approval of state water quality standards, he remarked: "The most significant single thing about the standards that I have approved is that they call for a minimum of secondary treatment for all municipal wastes and a comparable degree of treatment for industrial wastes."

[1] Secretary, Natural Resources Committee and Environmental Pollution Advisory Panel, Community and Regional Resource Development Group, Chamber of Commerce of the United States, 1615 H Street, N.W., Washington, D.C., 20006. Presented to the Association of State and Interstate Water Pollution Control Administrators at its Annual Meeting in Hartford, Connecticut, on December 13, 1967.

On November 8, on behalf of the National Chamber, I wrote to Assistant Secretary for Water Pollution Control, Frank C. Di Luzio, and asked if he would clarify those remarks so the business community could make appropriate plans. Our letter stated, "The interpretation of the phrase 'comparable degree of treatment' has caused much concern in the business community. Does this phrase imply the actual construction of a secondary treatment facility? Does it imply that an industrial waste effluent should have a quality as high as an effluent from a municipal secondary treatment plant? Does this phrase imply a certain percentage reduction of waste load regardless of the quality of the receiving water body?"

Unfortunately, I have not received an answer to that November 8 letter, and thus am unable to report to you how the Office of the Federal Water Pollution Control Administration has interpreted the statement of Secretary Udall.

The interpretation and application of Secretary Udall's statement could conceivably cause us many problems in the months ahead. In fact, trouble has already started. States which have agreed to the Secretary's demands are now experiencing difficulty in defining what constitutes the equivalent of secondary treatment for industrial waste. If your state's legislation calls for a program to assure acceptable water quality, you, as administrator of the program, will have to show that the discharges are damaging that quality. Whether or not the alleged offender (municipality or industrial plant) does or does not have a secondary treatment facility is not the material issue. If the court finds that the water quality is not impaired by the waste discharged, the standards which include a requirement for secondary treatment could be thrown out, even though approved by the Secretary of Interior. Thus, the efforts to improve a meaningful water pollution control program would be set back for an indefinite period of time. We cannot afford this risk. We need a meaningful and a determined program that will secure for ourselves and future generations, a desirable quality of water.

The guidelines issued by the Department of Interior have been considered by some as having the strength of law. But the federal Act did not require that conference conclusions and secondary treatment, as a minimum, be included in state standards. For the states to adopt standards solely to be in conformity with the guidelines is courting trouble.

The alarm has already been sounded by Frank J. Barry, Solicitor of the Department of Interior. The Bureau of National Affairs reported in its Daily Report of July 28, 1967, the following:

"The Water Quality Act of 1965 'is not a law at all,' in the judgment of Interior Department Solicitor, Frank J. Barry, but merely a 'methodology' for developing water-pollution-control standards of doubtful enforceability.

"Mr. Barry was one of four speakers here (San Francisco) at a water pollution program sponsored by the Federal Bar Association's Real Estate Commmittee at the association's 1967 convention.

"He recognized that the 1965 act will serve the purpose of focusing public attention on those industries and communities that are 'the bad guys' of water pollution. In that sense, he viewed it as a small step in the right direction.

"But a solution to the water pollution problem and preservation of our vital water resource, he went on, call for a major adjustment in our society. Unless the adjustment is made—and 'there will be some bitter battles fought'—water pollution is one of the ways we can 'burn up civilization,' he declared."

Dr. Mitchell Wendell, Legal Counsel to the Council of State Governments, and Secretary of this Association of State Industrial Water Pollution Control Administrators, has also raised the warning flag. At the Water Pollution Control Federation Meeting, earlier this year, Dr. Wendell questioned the enforceability of the FWPCA's requirements that State water quality standards demand secondary treatment or its equivalent.

Our federal and state government officials could well afford to take a new look at the present effort. Uniformity of effluent standards may readily be conceded as the approach which makes administration easier. But, is it best for the country? Is it worth the cost to the taxpayer and the consumer on whom the burden ultimately falls? In the long run, will it be a source of pride to the administrators of the program?

The topic of the discussions today is tax incentives for industrial waste treatment facilities. The word "incentive" is actually a misnomer. The social responsibility of industry and the laws provide the incentives. What society, including the municipalities and industries, should be looking for is the mechanism which would permit, at the lowest level possible, the fastest achievement of pollution control at the least cost to the general public.

Because Congress determined as a matter of policy that pollution should be controlled and abated at a vastly accelerated rate and made the federal government a party to the action, it is reasonable to expect that the federal government would provide a portion of the funding required. Congress has already provided some financial assistance to municipalities. In addition, many members of Congress, both in the Senate and House, have introduced legislation to extend the policy of financial assistance to industry. These proposals would give industry additional tax credits ranging from 7% on up for investments made in waste treatment facilities. However, no formal Congressional Committee action has been given to these bills. The Senate Committee on Public Works, believes Congress should give consideration to tax relief proposals for industrial pollution control activities. The Committee has properly based its reasoning on the fact that pollution control does not constitute a revenue-producing investment to industry, but rather is an environmental improvement. The Committee report stated, "Installation of pollution control devices is costly and in many cases nonremunerative. The billion dollars of capital investment which will have to be made by the industrial sector for the benefit of the entire society will place a substantial burden on corporate resources and ultimately on the general public."

Industry has supported the use of tax credits. In fact, industry has sought them to offset the high cost of constructing pollution control and abatement facilities. Furthermore, if the FWPCA requires the states to demand secondary treatment of all waste water discharges, industry will be required to ask Congress for substantial increases in the tax credits allowed for capital investments in waste treatment facilities, if it is to be able to have the financial capability for continuing productive capacity expansion.

The Board of Directors of the National Chamber of Commerce has gone on record to say:

"Present federal pollution control programs emphasize treatment methods and construction of facilities. This emphasis requires that industry make large capital investments and expensive attempts to improve performance of present government-approved methods. Consequently, industry has sought tax credits and accelerated amortization provisions for anti-pollution devices. Additional tax credits and accelerated amortization will be needed if the present programs are continued.

"Serious study needs to be given to incentives that would relate to performance in waste reduction rather than to the installation of particular treatment methods. One weakness of the present programs is that they tend to encourage the use of established waste treatment methods to the possible exclusion of more efficient solutions such as process changes, or, in the case of water, in-stream treatment. The present emphasis also encourages large investments in individual capital facilities which may soon face obsolescence should jointly owned or operated facilities or less capital-intensive methods prove to be more efficient."

If the federal government is going to demand that the states require secondary treatment of all wastes, a good case can be made for a substantial increase in the tax credit allowed for investment in treatment facilities as being expenditures for some public benefit rather than as treatment required to prevent injury to another.

However, it is also important to note that the mere authorization by Congress of a tax credit is of no value unless industry can take advantage of that tax credit. You will recall that for five months Congress suspended the 7% investment tax credit except for those expenditures which were made for pollution control and abatement facilities. For that period of time the Internal Revenue Service required that there be federal certification of those investments. Secretary Udall proposed, in the Federal Register of February 1, 1967, a set of conditions that would have to be met for industry to take advantage of the 7% tax credit. That proposed rule has never been promulgated, but, if it had, or if a similar rule would be applied to additional tax credits made available by Congress, it would almost negate the incentive intended.

Under these proposed rules, the Secretary would require double certification. That is, certification by state authorities and by the federal officials. Under these proposed rules to get the federal certification, conditions above and beyond the state requirements would have to be met. For industries seeking the tax credit, the net effect would have been the pre-emption of the state water quality standards by a federal effluent standard. Thus, the intent of the Water Quality Act of 1965 could have been substantially altered by the use of the proposed federal tax credit certification requirements.

If Congress should allow industry a substantial tax credit for treatment facilities, the entire credit could be of little or no value to industry by reason of the Secretary's certification requirements. Congress should set forth the specific qualifications, or provide that state certification will be sufficient to qualify for the federal tax credit.

Tax assistance to encourage water pollution abatement has been recognized as in the public interest by a number of states. However, the tax credit application can be a problem when it is difficult to show what part of the capital investment in a new plant has actually gone into pollution control and abatement facilities. This points up the advisability of defining in any legislation what the rules should be for certification. States have had to devise such rules for application of their credits. Granting the states the responsibility of certification for federal tax credit allowances would be a practical approach that would eliminate duplication of effort and expense.

Let me summarize my comments on tax credits by saying that if the present FWPCA program continues to demand that states arbitrarily insist upon secondary treatment of all effluent, industry is unquestionably going to need substantial tax credits to finance the costly and unprofitable treatment facilities.

Another "incentive" that might be made available to industry would be an allowance for the accelerated amortization of their waste treatment facilities. The business community would favor the quick write-off of their capital costs in a one-to-three year period. This would be most helpful when coupled with tax credits.

The Senate Public Works Committee suggested that Congress should also give consideration to a federal loan program designed to assist industry with the costs of pollution control. The Committee suggested that a Rural Electrification-type program might be helpful. This REA program, as you know, was designed as a social program to enhance the welfare of our rural citizens. The Committee states that, "The control of pollution is even a more important welfare requirement of our urban population." It may be advisable for the government to provide such a loan program, particularly, for some of the smaller or marginal plants that do not have the capital available for financing the costly waste treatment facilities. Such a program could be beneficial, but it does not provide a significant contribution to the costs of pollution control and abatement facilities. Rather, there would be the additional cost of the administration of the program.

One meritorious possibility for giving aid to industrial plants for pollution control and abatement would be for the federal government to make block grants to the states for that specific purpose. The states could then administer a program which would allow for grants or loans to those plants which need the funds to meet the state requirements. This would permit the local authorities to provide the assistance where it is most urgently needed to improve water quality.

In discussing programs that the federal government might inaugurate to assist in our continuing efforts to control and abate pollution, I feel compelled to comment upon the suggestion made by some that an affluent fee program be established. Conceptually, the effluent fee program would require industrial plants and municipalities to pay for the wastes discharged into streams and rivers. This possibility was given serious attention by a Study Committee made up of officials from the U.S. Departments of Treasury, Interior, Commerce, HEW, the Bureau of the Budget, and the Council of Economic Advisors. In August, 1966, this committee reported, based upon the information it had at that time, "that effluent fees provide an effective and highly efficient incentive for water pollution control. The Committee, therefore, recommends their use in addition to the enforcement provisions enacted in the Water Quality Act of 1965."

The information and data presently being gathered by a similar committee within the Government, has overwhelmingly shown such a program would be unworkable. Under present circumstances, the business community would also have to oppose any such program.

The knowledge now available indicates how important pollution control policies are to the nation, not only for the sake of water quality, but because of the financial costs to the country. Estimates of the costs of treatment, i.e., amortization of the capital investment and operation and maintenance costs, indicate that capital costs are about one-fourth to one-third the total costs. In other words, the operation costs will be about twice the construction costs. It must be remembered that operating costs are a tax deductible item. Thus, if increased treatment is required, it reduces future taxable income. If the increased treatment provides no realizable benefit in the stream, the public receives no benefit and the governments, state and federal, lose revenues.

Dr. Henry C. Bramer, an industrial economist, formerly of Mellon Institute, who is well qualified in the field of pollution control mechanics, as well as economics, recently reported to the American Institute of Chemical Engineers how financially important water pollution control decisions are to the American taxpayer.

First, he reported that, on the average, operating costs to treat each thousand gallons of industrial process water would amount to 10 cents for primary treatment, 20 cents for secondary treatment, 40 cents for tertiary treatment.

In other words, each decision to require the next higher degree of treatment doubles the operating cost.

For American industry, which utilizes 3,700 billion gallons of water a year for processsing purposes, the operating costs would be $370,000,000 for primary treatment, $740,000,000 for secondary treatment, $1,480,000,000 for tertiary treatment.

Secondary treatment thus adds $370 million per year to the cost of treating industrial water. Unless it is justifiable, it would be a poor allocation of resources. What it adds as a cost to municipalities I do not know.

But, Dr. Bramer offers an even more ominous warning when he cautions that the cost of process water treatment is smaller than the cost of lowering the temperature of "cooling water" used by industry to meet an arbitrary effluent standard, such as 90° F.

For American industry, the operating and amortization cost to provide cooling facilities will be in excess of $1 billion a year according to Dr. Bramer.

Secondary treatment of process water plus the cooling of "cooling water" thus means an annual cost of $1.8 billion.

If requirements for secondary treatment are limited to those areas where it is justified, the final cost will be somewhere between the $370 and the $1,800 million a year.

The next few months are crucial for the development of our water pollution control programs. The public needs to know the costs of pollution control and the benefits to be gained, so that our policy makers can make the right decisions in directing the use of the limited resources of our municipalities and industries and thus, the people. This is a responsibility of the technical leaders.

In summary, let me say again that the best incentive that could be made available to the industrial community, and I am sure to the municipalities, would be the establishment of reasonable standards, coupled with a realistic timetable, that would protect the water quality in our rivers, streams, and lakes. If we are concerned with the quality of water as differentiated from the quality of the effluents, the question of reasonableness—reasonable standards and reasonable time periods—can be easily determined by you, the administrators of the state programs, the federal officials, and representatives of the business-industrial community.

I appreciate the opportunity of discussing these problems with you.

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CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
*Washington, D.C., November 8, 1967.*

Mr. FRANK C. DI LUZIO,
*Assistant Secretary, Water Pollution Control, U.S. Department of the Interior, Washington, D.C.*

DEAR SECRETARY DI LUZIO: On August 9, 1967, Secretary Udall appeared before the Senate Public Works' Subcommittee on Air and Water Pollution to relate the progress of the federal water pollution control effort. In discussing the approval of state water quality standards, he remarked:

"The most significant single thing about the standards that I have approved is that they call for a minimum of secondary treatment for all municipal wastes and a comparable degree of treatment for industrial wastes."

The interpretation of the phrase "comparable degree of treatment" has caused much concern in the business community. Does this phrase imply the actual construction of a secondary treatment facility? Does it imply that an industrial waste effluent should have a quality as high as the effluent from a municipal secondary treatment plant? Does this phase imply a certain percentage reduction in wasteload, regardless of the quality of the receiving water body?

These questions reflect the uncertainty of the business community, and the need for a clarification from your office, so that the correct interpretation of this phrase may be applied.

Sincerely,

JAMES G. WATT,
*Secretary, Natural Resources Committee.*

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U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., December 29, 1967.*

Mr. JAMES G. WATT,
*Secretary, Natural Resources Committee, Chamber of Commerce of the United States, Washington, D.C.*

DEAR MR. WATT: Following are my comments on the questions you raised in your November 8, 1967, letter concerning definitions of degree of treatment in relation to compliance with water quality standards.

Policy statement Number 8 in the "Guidelines for Establishing Water Quality Standards for Interstate Waters" includes the following statements: (1) "No standard will be approved which allows any wastes amenable to treatment or control to be discharged into any interstate water without treatment or control regardless of the water quality criteria and water use or uses adopted;" (2) ". . . no standard will be approved which does not require all wastes . . . to receive the best practicable treatment or control unless it can be demonstrated that a lesser degree of treatment or control will provide for water quality enhancement commensurate with proposed present and future water uses."

The intent of this and other policy statements is to meet the requirement of the Federal Water Pollution Control Act, as amended, which is to enhance the quality of water. In this country, secondary treatment has become the conventionally accepted level of treatment necessary to protect present and future water uses and yet meet the test of economic and technical feasibility. It is usually the degree of treatment implied in the phrase—"best practicable treatment."

Most water pollution control officials can agree on a general definition for secondary treatment as applied to municipal wastes. It is more difficult, however, to get a consensus on a precise definition for industrial wastes. Thus, the use of phrases like "comparable degree of treatment" or "equivalent high degree of treatment." Recognizing the vast differences in the characteristics of industrial wastes, the definition of acceptable treatment will have to be applied with reason and tailored to the amenability of specific wastes to receive treatment. In all cases, the test of technical and economic feasibility must be met.

The standards as adopted by the States often place industrial biodegradable wastes in the same category as municipal sewage. When acceptable treatment is defined numerically for these wastes it often is expressed as *at least* 80 to 90 percent removal of the biochemical oxygen demand (BOD). The States and this Department recognize that some highly concentrated organic industrial wastes may require removal efficiencies exceeding the 80 to 90 percent figure.

Acceptable removal efficiencies for non-biodegradable wastes have not been defined by the States nor have quantitative guidelines been issued by the Federal Water Pollution Control Administration. The thrust of pollution abatement efforts in the past has been usually directed at stream standards, not effluent standards. To meet drinking

water or aquatic life protection standards this may have required removal efficiencies of certain inorganic pollutants that exceeded the 80 to 90 percent values. This is particularly true for materials such as heavy metals and cyanide. These materials and organic compounds such as phenols can seriously impair the usefulness of water resources, when present in very small quantities.

In summary, the phrase "comparable degree of treatment" will be interpreted reasonably by State and Federal water pollution control officials. It will take into account feasible technology and economics. In many instances the requirement for this degree of treatment will mean the construction of conventional secondary treatment facilities. Furthermore, in the case of biodegradable waste, it may mean effluent quality similar to that for municipal effluents (a few States have expressed their requirements in this fashion). Also, in some instances, it will mean in-plant process controls coupled, if necessary, with waste treatment.

A high degree of waste treatment or control should implement our goal of preventing limiting value required for specific water uses, water quality degradation down to some. It will also meet Secretary Udall's goal of making water as clean as possible, not unclean as possible.

Sincerely yours,

FRANK C. DI LUZIO,
*Assistant Secretary of the Interior.*

## PRESIDENT BUILDS ON THE MOST FAR-REACHING CLEAN WATER PROGRAM IN AMERICAN HISTORY

Mr. BIBLE. Mr. President, it is encouraging—but hardly surprising—to note the emphasis the President placed on water pollution in his excellent message, "To Renew a Nation." The most far-reaching water pollution control legislation in history was passed while Lyndon Johnson was President. As a consequence of the President's continued leadership, there is now, for the first time, a real basis for confidence that the polluted rivers of this country will one day again run clean.

The great water crisis that we have been hearing so much about in recent years is being turned into the great water clean-up.

The Water Quality Act of 1965 and its companion, Clean Water Restoration Act of 1966, are giant steps in that direction. The President's message is a reaffirmation that there will be no letup in the campaign to assure that all Americans will have ample supplies of clean water in the years and generations ahead.

Water pollution control is achieved not through miracles but through sound planning, sound legislation, and sound action programs at all levels of government. Thanks to President Johnson's leadership and the determination of all those involved in the war on water pollution, the essential components now exist for a national water clean-up crusade.

I join the President in that effort.

## REPORTS OF EXPENDITURES OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY COMMITTEE ON BANKING AND CURRENCY AND COMMITTEE ON RULES AND ADMINISTRATION

Mr. HAYDEN. Mr. President, in accordance with the Mutual Security Act of 1954, as amended, I ask unanimous consent to have printed in the RECORD the reports of the Committee on Banking and Currency and the Committee on Rules and Administration concerning the foreign currencies and U.S. dollars utilized by those committees in 1967 in connection with foreign travel.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON BANKING AND CURRENCY, U.S. SENATE, BETWEEN JAN. 1 AND DEC. 31, 1967

| Name and country | Name of currency | Lodging | | Meals | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Edward W. Brooke: | | | | | | | | | | | |
| Hong Kong | Hong Kong dollar | 225.00 | 40.00 | 337.50 | 66.00 | | | 193.80 | 25.72 | 756.30 | 131.72 |
| Japan | Yen | 6100.00 | 16.00 | 2000.00 | 6.50 | 4277.00 | 11.88 | | | 8100.00 | 34.38 |
| Taiwan | New Taiwan dollar | 1150.00 | 28.00 | 100.00 | 3.25 | | | | | 1250.00 | 31.25 |
| Vietnam | Vietnam dollar | | | 1800.00 | 15.00 | | | 1430.00 | 11.53 | 3230.00 | 26.53 |
| Thailand | Baht | 800.00 | 40.00 | 850.00 | 42.00 | 1300.00 | 63.20 | 642.50 | 29.45 | 2850.00 | 174.65 |
| Netherlands | Franc | | | | | 7000.70 | 1,939.79 | | | 7000.70 | 1,939.79 |
| Subtotal | | | 124.00 | | 132.75 | | 2,014.87 | | 66.70 | | 2,338.32 |
| William I. Cowin: | | | | | | | | | | | |
| Hong Kong | Hong Kong dollar | 225.00 | 40.00 | 337.50 | 66.00 | | | 193.80 | 25.72 | 756.30 | 131.72 |
| Japan | Yen | 6100.00 | 16.00 | 2000.00 | 6.50 | | | | | 8100.00 | 22.50 |
| Taiwan | New Taiwan dollar | 1150.00 | 28.00 | 100.00 | 3.25 | | | | | 1250.00 | 31.25 |
| Vietnam | Vietnam dollar | | | 1,800.00 | 15.00 | | | 1,430.00 | 11.53 | 3,230.00 | 26.53 |
| Thailand | Baht | 800.00 | 40.00 | 85.00 | 42.00 | 200.00 | 10.00 | 441.50 | 19.50 | 2,849.00 | 111.50 |
| Netherlands | Franc | | | | | 7,000.70 | 1,939.79 | | | 7,000.70 | 1,939.79 |
| Subtotal | | | 124.00 | | 132.75 | | 1,949.79 | | 56.75 | | 2,263.29 |
| Total | | | 248.00 | | 265.50 | | 3,964.66 | | 123.45 | | 4,601.61 |

RECAPITULATION

| | *Amount* |
|---|---|
| Foreign currency (U.S. dollar equivalent) | 4,601.61 |

MARCH 8, 1968.

JOHN SPARKMAN,
*Chairman, Committee on Banking and Currency.*

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON RULES AND ADMINISTRATION, U.S. SENATE, BETWEEN JAN. 1 AND DEC. 31, 1967

| Name and country | Name of currency | Lodging | | Meals | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator B. Everett Jordan: | | | | | | | | | | | |
| Italy | Lira | 111,312 | 178.67 | 56,070 | 90.00 | 69,350 | 111.32 | 9,521 | 15.28 | 246,253 | 395.27 |
| Airline ticket (Washington, D.C., to Naples). | German deutsche mark. | | | | | 1,939.80 | 484.83 | | | 1,939.80 | 484.83 |
| Ship ticket (Naples to New York) | French franc | | | | | 2,777.02 | 566.74 | | | 2,777.02 | 566.74 |
| Subtotal | | | 178.67 | | 90.00 | | 1,162.89 | | 15.28 | | 1,446.84 |
| William M. Cochrane: | | | | | | | | | | | |
| Japan | Yen | 6,624 | 18.40 | 17,028 | 47.30 | | | 6,348 | 17.63 | 30,000 | 83.33 |
| Hong Kong | Hong Kong dollar | 101 | 16.80 | 105 | 17.50 | | | 111 | 18.50 | 317 | 52.80 |
| Air travel | Deutsche mark | | | | | 7,100 | 1,775.20 | | | 7,100 | 1,775.20 |
| Subtotal | | | 35.20 | | 64.80 | | 1,775.20 | | 36.13 | | 1,911.33 |

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON RULES AND ADMINISTRATION, U.S. SENATE, BETWEEN JAN. 1 AND DEC. 31, 1967—Continued

| Name and country | Name of currency | Lodging | | Meals | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| John F. Haley: | | | | | | | | | | | |
| Belgium | Franc | 2,300 | 46.00 | 1,750 | 35.00 | 300 | 6.00 | 550 | 11.00 | 4,900 | 98.00 |
| Denmark | Kroner | 377.10 | 52.00 | 222.09 | 33.00 | | | 87.49 | 13.00 | 659.54 | 98.00 |
| England | Pound | 42-8-0 | 120.00 | 34-12-8 | 98.00 | | | 10-19-1 | 31.00 | 88-0-0 | 249.00 |
| Ireland | do | 8-16-8 | 25.00 | 6-0-6 | 17.00 | | | 2-13-5 | 7.50 | 17-10-0 | 49.50 |
| Germany | Deutsche mark | 548 | 127.00 | 352 | 88.00 | 124 | 31.00 | 140 | 35.00 | 1,164 | 281.00 |
| Airline ticket (Washington, D.C., to Dusseldorf, and return). | do | | | | | 3,555.3 | 900.80 | | | 3,555.3 | 900.80 |
| Subtotal | | | 370.00 | | 271.00 | | 937.80 | | 97.50 | | 1,676.30 |
| Japan | Yen | 20,000 | 55.50 | 18,400 | 51.50 | | | 11,290 | 31.35 | 46,690 | 138.35 |
| Hong Kong | Hong Kong dollar | 220 | 37.40 | 170 | 28.90 | | | 150 | 25.50 | 540 | 91.80 |
| Airline ticket | Deutsche mark | | | | | 7,100 | 1,775.20 | | | 7,100 | 1,775.20 |
| Subtotal | | | 92.90 | | 80.40 | | 1,775.20 | | 56.85 | | 2,005.35 |
| Total | | | 676.77 | | 506.20 | | 5,651.09 | | 205.76 | | 7,039.82 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | 7,039.82 |

B. EVERETT JORDAN,
*Chairman, Committee on Rules and Administration.*

MARCH 8, 1968.

## THE FUTURE OF ASIA AND THE PACIFIC NATIONS

Mr. McGEE. Mr. President, the very first thing to understand when speaking of the war in Vietnam is that the issue is not Vietnam, but a much wider one involving the movement of world power poles. We fight today in Vietnam. But if it were not Vietnam, it would be someplace else. If it were not today, it would be tomorrow. Events led the conflict in Asia to its test in Vietnam. If we fail to hold onto South Vietnam's independence, the aggressors will move inexorably to grasp for more power, involving other nations as, indeed, they are already trying to do.

Mr. President, the future of all Asia and of the Pacific nations of Australia, New Zealand, and the Philippines is tied to the future of South Vietnam. Nor do we need to stop there. Ralph McGill, in an excellent column published in yesterday's Evening Star, pointed out how the Soviet Union has made diplomatic inquiry about the possibility of its fleet replacing the British at the huge naval base on Malta. This, too, is a part of the very real power shift underway. Mr. McGill says:

> It is not honest dialogue to talk exclusively about Vietnam—as if it were not a part of the area in which power politics already are operating and will increasingly operate as the future unfolds.

Nor it is relevant, to debate endlessly about how we got "into it" in Vietnam. We are there, and we must realize that the war in Vietnam is intimately related to the power moves now in progress around the world—in the Indian Ocean, in the Mediterranean, on the Asian mainland. Mr. President, I ask unanimous consent that Mr. McGill's column, entitled "Vietnam Linked to Worldwide Power Struggle," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIETNAM LINKED TO WORLDWIDE POWER STRUGGLE

At Valletta, Malta, the Soviet Union has made polite, diplomatic inquiry about replacing the British in Malta's huge naval base when the British depart—perhaps this year.

At the British foreign office in London—and throughout Britain itself—there was a quick intake of breath, and many minds said, "But this is not what was supposed to happen."

They are right. The Soviet inquiry was not anticipated. But, once again, we may see that power may change its appearance, but not its reality. The British and French are gone from the eastern Mediterranean. A large Soviet fleet now is there. The British substantially have reduced their naval strength in Malta to a supply base. The economy of Malta, for decades dependent on the British fleet presence, is depleted. Unemployment is a problem. Less than 10 years ago Malta was classed as a "vital stronghold."

Malta, an ancient area of strategy and conflict has an enthralling history of war and occupation. For 35 centuries the islands of which Malta is the largest, were ruled in turn, by Phoenicians, Carthaginians, Romans, Arabs, Normans, the Knights of Malta, France and Britain.

In the second great war Malta was an emotional and necessary base for the beleaguered British. Malta withstood almost three years of continuous air attacks from Germans and Italians. It was imperative to hold Malta. And the Maltese held on.

Malta is 58 miles south of Sicily and 180 miles from Africa. Independence was granted in 1964. The British pledged to keep their base for at least 10 years.

The reality of power—economic and military—is that the British of necessity are cutting back. They plan withdrawals from the last base in the Mediterranean and from the Indian Ocean as well.

The Soviet Union, already possessed of a substantial fleet, steadily is increasing it. It uses bases in Egypt, Syria, Algeria. If it negotiates into the huge base at Malta, this will be another reality of power—with a changed appearance, from British to Russian.

It is this background, and the reality of power loosed in the world and following well-thought-out plans, that makes almost irrational the question, "What do you think about Vietnam?" It simply is not possible to dissect Vietnam out of China or South Asia—out of the meaning of the present Mediterranean situation, out of Malta or the coming vacuum of power in the Indian Ocean. The future of Australia, New Zealand, of the Philippines and other areas are tied to Vietnam with the umbilical cord of power moves now in progress.

It is not honest dialogue to talk exclusively about Vietnam—as if it were not a part of the area in which power politics already are operating and will increasingly operate as the future unfolds.

The Vietnam cultists, who persist in viewing the issue as if Ho Chi Minh and the Hanoi government were an innocent, pastoral group of happy villagers imposed upon by the United States, have become so obsessed with their own concept that many of them have managed a sort of transmigration of souls, hating their own country, wanting its men killed, its armies defeated, describing their President as an ogre, and otherwise identifying with the Viet Cong. (There are tea rooms in New York's Greenwich Village that advertise tea "just like the Viet Cong drink.")

Vietnam is an anguish to every thoughtful person. But it is not separated from Southeast Asia or the inescapable politics of power now so irrevocably at work. Nor will it be until Hanoi is willing to negotiate. How we got "into it" is no longer relevant. We are there. Meanwhile, let us not delude ourselves with the suggestion that Vietnam is unrelated to the whole.

## APPROVAL OF PRESIDENT'S MESSAGE ON ENVIRONMENT

Mr. JACKSON. Mr. President, the Citizens' Advisory Committee on Recreation and Natural Beauty is an organization dedicated to the public purposes set forth in its name. Its chairman is Laurance S. Rockefeller, who has served the cause of outdoor recreation and the preservation and enhancement of the natural beauties of America so long and so well. Mr. Rockefeller was also chairman of the Outdoor Recreation Re-

sources Review Commission, which has played such an important role in our recreation development program. Both the Citizen's Advisory Committee and its chairman are true experts in the field.

The committee has made a public announcement praising President Johnson's message on environment, and in view of the importance of both the message and the views of this body of experts. I ask unanimous consent that the committee's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CITIZENS' COMMITTEE PRAISES ENVIRONMENTAL MESSAGE

The Citizens' Advisory Committee on Recreation and Natural Beauty today praised the President's Message on the Environment as another important step in preserving and enhancing natural beauty and recreation opportunities for all Americans.

Chairman Laurance S. Rockefeller said, "This Message is another example of President Johnson's continuing leadership and concern for a better and more beautiful America."

The Committee expressed particular pleasure in the Message's concern with urban environmental needs. "The vast majority of Americans now live in cities and while our great parks in the West are priceless assets, we also need recreation opportunities where people live," Mr. Rockefeller said. "I hope we will see a continued emphasis on programs in the city, for I believe that recreation and natural beauty can make a great contribution toward making cities better places to live for all our people."

The Committee also cited the following parts of the Message as particularly urgent needs: the addition of substantial funds from offshore oil revenues to the Land and Water Conservation fund; adequate funding for the highway beautification program; and the establishment of a Redwoods National Park and other proposals for increasing national park and recreation lands.

## EAVESDROPPING IN THE COURTS

Mr. LONG of Missouri. Mr. President, in May of 1967 my Subcommittee on Administrative Practice and Procedure heard sworn testimony to the effect that employees of the Internal Revenue Service and the U.S. attorney's office in Detroit, Mich., equipped a fellow employee with a transmitter and sent her into a room adjacent to the grand jury to overhear and transmit conversations of witnesses between themselves and between their attorneys. The Honorable Ralph M. Freeman, chief district judge in the eastern district of Michigan, expressed grave concern in connection with these activities and immediately initiated an investigation, the results of which he has furnished to me.

Existing criminal statutes punish such activities if conducted within the grand jury room proper but do not extend to the witness room. I am pleased to advise my colleagues that Judge Freeman has taken the initiative in correcting these practices and that as of March 1, 1968, he has promulgated new rules for his district which, under rule XXVI, prohibit eavesdropping anywhere in the vicinity of the courtroom, the grand jury room, or other offices of the court.

I ask unanimous consent to have printed in the RECORD the text of Judge Freeman's rule XXVI as further evidence of a growing abhorrence of these odious practices which undermine our historical concepts of fairplay and privacy.

There being no objection, the item was ordered to be printed in the RECORD, as follows:

RULES OF THE U.S. DISTRICT COURT

RULE XXVI

*Cameras and recording devices*

1. The taking of photographs in the courtroom or their environs in connection with any judicial proceeding and the recording or broadcasting of judicial proceedings by radio, television, or other means is prohibited.

2. As used herein "judicial proceedings," in addition to its usual and customary meaning, shall include:

a. Any proceeding before any Referee in Bankruptcy or United States Commissioner; and

b. Sessions of the Grand Jury.

3. The phrase "in connection with any judicial proceeding," taking into account the efficient and orderly conduct of the business of the court, and for the protection of witnesses, litigants, jurors (petit and grand), counsel, and other participants in judicial proceedings, shall include all participants in such proceedings while they are in a courtroom or its environs.

4. The prohibition of Section 1 shall extend to the following periods:

(a) From 8:30 in the morning until 5:30 in the afternoon of any regular court day;

(b) From one hour before until one hour after any judicial proceeding on other than a regular court day; and

(c) For one hour after any judicial proceeding in the evening.

5. "Courtroom" of a United States Commissioner means any place where a judicial proceeding is conducted.

6. The word "environs," as used herein, shall include the entire floor on which any courtroom or grand jury room is located, and offices of the Clerk of Court and probation offices.

7. This rule shall not prohibit recordings by a court reporter provided, however, no court reporter or any other person shall use or permit to be used any part of any recording of a court proceeding on, or in connection with, any radio or television broadcast of any kind. The Court may permit photographs of exhibits to be taken by, or under the direction of, counsel.

8. Proceedings other than judicial proceedings, designed and conducted as ceremonies, such as administering oaths of office to appointed officials of the Court, presentation of portraits, and similar ceremonial occasions, may be photographed in, or broadcast, or televised from the courtroom, with the permission and under the supervision of the Court.

9. The United States Marshal and his staff are charged with the responsibility of taking necessary steps to enforce this rule.

## ACP—SPECIAL ACTIVITIES INVOLVING SPANISH AMERICANS

Mr. MONTOYA. Mr. President, the Rio Arriba agricultural stabilization and conservation county office in New Mexico was recently designated the "outstanding ASCS county operation in the Nation."

Administrator Horace D. Godfrey, of the U.S. Department of Agriculture's Agricultural Stabilization and Conservation Service, cited the farmer-elected ASC county committee and office staff for overall excellence of operation. He noted particularly the pioneer efforts made by the staff in helping farmers and ranchers of Spanish and Indian descent improve their farmland resources through participation in the agricultural conservation program.

I join Administrator Godfrey in applauding the excellent work of this staff. Fred Romero, county office manager, and program clerks Clarabelle Ortiz and Ramona Jiron carry on the day-to-day operations of ASCS program administration from the county office in Espanola, N. Mex.

These dedicated people work as a team with the farmer-elected ASCS county committee: Chairman Pat Martin, Elesio Valdez, and Tony Schmitz, Jr.

Last year this team held a total of 26 community meetings in the country to give firsthand information to farmers and ranchers about ASCS soil and water conservation programs. They have developed a first-rate working relationship with Bureau of Indian Affairs officials who assist them in projects carried out on Indian lands.

This enterprising staff credits much of its success to a countywide, bilingual approach. Program information and instructions are presented in both English and Spanish.

Recently completed accomplishments in Rio Arriba County include:

First. Fourteen community irrigation water systems rehabilitated and updated to provide adequate water for crops and pasturelands.

Second. Special cost-share rates offered to small-acreage, low-income farmers who otherwise could not afford to participate in needed conservation projects.

Third. Inclusion of the Jicarilla Apache Indian Reservation in the ACP Four Corners special project—involving 10 counties in four States. This project emphasizes rangeland conservation practices such as fencing, brush control, reseeding pastureland, water development, impoundments and distribution systems.

Four. Emergency conservation assistance to 511 low-income farm families to rehabilitate farmland and irrigation ditches severely damaged in floods caused by heavy rains last August.

Working with farmers who irrigate their small acreages of orchards and fields out of community irrigation ditches, the ASCS team is helping farmers update and modernize irrigation systems, some of which have been in existence for more than 300 years.

Many of the ditches show their age, and primitive origin. Brush and rocks are piled in streams to divert water into canals and ditches. Dirt ditches, choked by weeds, willows, and cottonwoods, deliver only a small percentage of the water to thirsty fields—the rest of it is lost through seepage, or evaporation, or is absorbed by the weeds and trees which line the ditch banks.

These systems serve a great number of small-acreage farms. The ASCS team has adjusted rates to provide Federal cost-sharing at a 70-percent rate. The State of New Mexico contributes 15 percent. Farmers, by pooling their resources, and obtaining long-term credit, pay the remainder of the cost.

Since 1964, the Rio Arriba County

team has developed 38 special projects involving 11,580 acres of cropland on 1,415 farms. They have helped 862 farmers who were new participants in the farm programs. The ACP cost-share on these projects was $245,085. The State of New Mexico contributed $43,163. Farmers themselves contributed the remainder, $72,310.

Statements by mayors, businessmen, ministers, and farmers testify that these projects are benefiting whole communities themselves. Where before farmers tried to eke out a living on poorly watered farmland, now they are producing alfalfa, chilies, apples, sweet corn, other vegetables, and livestock not only for themselves, but for the steadily growing markets of Los Alamos, Santa Fe, and Albuquerque.

It is always a pleasure to recount a success story. And the ACP story in Rio Arriba County is truly that. Not only in Rio Arriba, but in every agricultural county of the Nation, the ACP is helping farmers and ranchers improve their farmland resources.

I yield to no one in my support for new programs that will provide new opportunities and more income for our rural disadvantaged. But there is a danger that in our enthusiasm for new programs and new approaches we may overlook the time-honored and universally acclaimed cost-sharing program that for more than 30 years has been the foundation of all conservation work on privately owned farmland.

The Congress may have acted more wisely than it knew when it enacted the Soil Conservation and Domestic Allotment Act. Surely no one seriously questions that our cooperative efforts to improve the quality of life in rural America through conservation of our renewable natural resources are undergirded by local farmers themselves, pooling their resources, and their cost-share assistance, to bring economic benefits to the communities where they live.

## INDUSTRIAL DEVELOPMENT BONDS

Mr. METCALF. Mr. President, I was pleased to learn that the Treasury Department announced on March 6, 1968, that it was reconsidering a previous position it had taken with respect to industrial development bonds. It announced that as of March 15, it would be issuing regulations effective on that date holding that this type of corporate financing is to be treated the same way as any other form of corporate financing for Federal tax purposes.

The growing use of industrial development bonds was a major financial problem. These bonds are costing all State and local governments—both those which use them and those like Montana which do not—many millions of dollars each year.

Typically an industrial development bond involves a case in which a city issues bonds to finance a factory which is rented to a private corporation and the rental payments are geared to cover interest and principal payments on the bonds. In most cases the bonds are so-called revenue bonds which means that the "rental" payments are the sole source of the revenue for repayment of the bonds and the city has no obligation to repay principal or interest on the bonds in the event of corporate default. In effect these are really private corporate obligations and I can see no reason why the mere fact that the city allows its name to be used on the bonds and agrees to act as some form of agent or trustee to collect the rents and pay them to the bond buyer should make these bonds tax-exempt State or local government bonds.

The Treasury's action is a vital step toward eliminating these private corporate bonds from the tax-exempt bond market. The tax exemption of interest on State and local bonds provided is intended to aid our State and local governments in financing their governmental facilities at the lowest possible interest cost. The addition of these corporate bonds to the already overcrowded market for bonds issued for legitimate governmental purposes has increased the borrowing costs on water and sewer bonds, school bonds and similar government issues at a time when our State and local governments are confronted with ever expanding needs for new facilities.

Last year the State of Montana and its political subdivisions issued $21 million in bonds with an average life of 15 to 20 years to finance their governmental functions. Financial experts concerned with the municipal bond market have estimated that the interest rate paid on Montana's bonds was between one-quarter and one-half of 1 percent higher than it would have been if these legitimate governmental issues had not had to compete for buyers in the same market as tax-exempt industrial development bonds issued on behalf of private corporations. Thus, the mere existence of industrial development bonds on the market last year cost the taxpayers of Montana between $785,500 and $1,575,000. This is the amount of added interest that State and local governments of Montana became obligated to pay over the average life of the legitimate bonds they issued in 1967.

I am therefore pleased to see that the Treasury Department has announced that it is taking steps to correct this situation and eliminate these essentially corporate obligations from the tax-exempt bond market. By the same token I feel that it is also appropriate to make clear that the Treasury action does not rule out the possibility of legislative action in this area.

The Senator from Connecticut [Mr. RIBICOFF] has an excellent bill on this subject. I endorse that bill and urge its enactment so that we can all be sure that this practice and all variations of it are stopped.

The Wall Street Journal of March 8 carries a detailed analysis of Treasury's proposed action. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO BUSINESS FOR CITIES

Since Congress seems reluctant to end the tax-exempt status of industrial revenue bonds, the Treasury intends to try to achieve the same end through administrative action. In the circumstances, that may be a good idea.

For a long time communities have been trying to attract new industry by offering various financial incentives, and in recent years an increasingly popular device has been the industrial-revenue bond. Municipalities sold more than $1 billion of such securities last year, up from only $70 million in 1960.

Money raised with the securities is used to build factories for incoming companies, whose rental payments then go to pay off the bonds. The companies like the idea because the cities can raise the construction funds more cheaply than the firms could if they had to market their own securities.

The prime reason for the lower financing costs, of course, is that income from municipal bonds is exempt from Federal tax; the securities thus are especially attractive to well-to-do investors. The Treasury is not alone in questioning whether this setup is desirable.

AFL–CIO officials charge that the system is a "vicious" way of moving jobs from one place to another. Many municipal-securities firms are fearful that the swift expansion of industrial-revenue financing will make it more difficult for communities to find takers for bonds used to build schools, roads and other more traditional facilities. Criticism of the factory-building schemes, in fact, could eventually lead to elimination of the tax-exempt privilege for all municipal securities.

The best way out would be for the cities themselves to refrain; surely none of them wants to destroy the market for their conventional securities. Aside from that, industrial real estate is a field in which few municipalities can claim expertise, and the losses in future years could be considerable. Companies attracted only, or even mainly, by low rental costs aren't always the soundest providers of long-term jobs, since some may be only too eager to move on if another community makes a better offer.

Naturally enough, the Treasury objects chiefly to the loss of Federal revenue. Its officials argue, and we think persuasively, that the revenue bonds—now authorized in 41 states—are in reality obligations of the business firms involved because their rentals pay off the securities. The Treasury has been pushing for Congressional action, but the lawmakers so far have been unwilling to offend local officials enamored of the practice.

For the good of everyone concerned, the practice should be eliminated. If the cities or Congressmen don't see it that way soon, the Treasury is both right and reasonable to move on its own.

## OCEAN EXPLORATION—THE PRESIDENT'S MESSAGE ON CONSERVATION

Mr. MAGNUSON. Mr. President, the decade of ocean exploration proposed today by President Johnson holds great promise—promise of valuable new resources, new mineral and energy sources, new and expanded fishery and seafood stocks, new knowledge of marine weather and environments, new wealth.

And in his conservation message the President has made clear his determination to continue the work so promisingly begun.

Early next week I expect to introduce a measure which will add emphasis and strength to what the President has said.

My measure will provide financing of exploration and mapping of the marine environment and provide additional funds for sea-grant colleges.

A year and a half ago the 89th Congress passed, and President Johnson

signed, Public Law 89-454, the Marine Resources and Engineering Development Act of 1967. This law established a national policy to intensify the study of the sea and to convert its potential to mankind's use. It was designed to give Federal marine science programs greater momentum and sharper direction. It assigned the leadership of Federal marine science activities to the President of the United States. And it created a Presidential Commission and a National Council, the latter under the chairmanship of the Vice President, both serving the public's needs through support to the President.

This statement deserves the attention of Congress and the Nation. As the President points out:

The task of exploring the ocean's depth for its potential wealth—food, minerals, resources—is as vast as the seas themselves.

Historically we in this Nation have experienced cycles of maritime interest and apathy. But today we are reexamining our stake in the oceans in the context of the prospects opened to us by modern science and technology.

We recognize that the seas can contribute to the renewal of a nation through expanding international cooperation and understanding; accelerating use of food from the sea; encouraging development of mineral resources; enhancing the recognized benefits of the coastal zone; facilitating transport and trade; strengthening military programs for national security; and helping us to understand and use the ocean environment.

If we would use the seas to maximum effectiveness, we must know more about them and focus our knowledge directly onto specific national purposes. That is why I am particularly interested in the President's instruction to the Secretary of State to consult with other nations on the steps that could be taken to launch an international decade of ocean exploration for the 1970's. Marine science and technology have advanced to make this possible. Global ocean exploration and understanding are no longer dreams. They are practical.

To achieve this transition from scientific curiosity into practical benefits will require a massive effort. Such a national effort is best undertaken at the highest levels, and I, for one, feel that the leadership of the President is essential. The statement pledging that leadership, in the message on renewal of the Nation, provides timely impetus to an already successful marine sciences program.

## FOOD SERVICE PROGRAMS IN DAY CARE CENTERS

Mr. MONTOYA. Mr. President, I want to commend the Members of the House for their action this week in approving unanimously H.R. 15398, the bill to extend food service programs to children in day-care centers, settlement houses, and summer recreational activities and to provide permanent authorization for the school breakfast program.

I hope the Senate will move as rapidly and emphatically on the bill which I introduced, S. 2871, for the same purposes.

The programs authorized in this bill are part of the President's program but it is obvious that there is a broad base of nonpartisan consensus as to the need for these steps to improve the nutrition for our preschool and school-age children.

I hope the Senate Agriculture and Forestry Committee will hold hearings as soon as possible and I urge the Senate to add one more dimension to our feeding programs by increasing the authorization for funding of the food stamp program.

There is a great concern throughout the country on the problem of malnutrition among our low-income citizens. By passing these measures we can express our determination to do everything we can to assure better nutrition for families and for children.

## THE FARM LOSS DEDUCTION

Mr. METCALF. Mr. President, the May 1967 issue of the American Bar Association Journal contains an article by Walter H. Sweeney, a member of the bar of the District of Columbia. He discusses in some detail the fact that under our existing tax structure many wealthy people can make substantial tax savings by owning farms which they operate at a loss.

On November 1, I introduced S. 2613, a bill to amend the Internal Revenue Code of 1954 to provide that farming losses incurred by persons who are not bona fide farmers may not be used to offset nonfarm income. Several Senators are cosponsoring the bill. Since its introduction a companion bill has been introduced in the House and referred to the Committee on Ways and Means. Mr. Sweeney's article deals with this problem in very cogent terms. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FARM LOSS DEDUCTION

(By Walter H. Sweeney, of the District of Columbia Bar)

(NOTE.—Mr. Sweeney is disturbed by the fact that many wealthy people can make substantial tax savings by owning farms which they operate at a loss. The losses are used to offset other income under Section 165 of the Internal Revenue Code. The key to the problem is the difficulty of determining whether a farm really is being operated as a "trade or business" or whether it is merely a hobby. Mr. Sweeney discusses the problem and suggests a possible amendment to the present law to eliminate this loophole.)

The labyrinth of the tax law presents a difficult problem in determining when a "farmer" is really a farmer. The question arises when one who has called himself a farmer for a number of years is asked to substantiate that assertion before the Internal Revenue Service will allow him to deduct losses incurred in a trade or business, *i.e.*, "farming. Since operation of a farm is a particularly hazardous undertaking in terms of being profitable, one might conclude that no one can afford to be a farmer unless profit is in prospect. There are, however, certain individuals with independent means who can afford to continue their "farm" operations despite absence of a profit. This anomaly is due to the tax saving involved. For example, if a farm owner is in the 70 per cent tax bracket with most of his income from other sources, and his farm expenses plus depreciation exceed farm income by $20,000, then he can claim that amount as a loss and offset it against his other income. He is out of pocket $20,000, but has recouped 70 per cent of that amount and it actually costs him only 30 cents for every dollar that is spent on his farm. That amount is more than recovered through long-term appreciation in the value of the property. The net result is that he can have a substantial country estate and divert the major portion of the cost to the Government.[1]

As a general rule any loss sustained during the taxable year that is not covered by insurance or otherwise is deductible,[2] but in the case of an individual, the deduction is limited to losses incurred in a trade or business or in some transaction entered into for profit though not connected with a trade or business.[3] The trade or business test for an individual's loss deduction has been the standard throughout the years,[4] but Congress has never made express provision that the trade or business must be carried on for profit.[5] Since the statutes have not provided a definitive test, the courts have considered over the years a multitude of cases dealing with the question of whether a particular "farmer" was engaged in a trade or business when he suffered recurring losses.

One of the earliest cases is *Plant* v. *Walsh*,[6] where the taxpayer deducted farm losses for the years 1913 and 1914 in the amounts of $107,680.70 (200 per cent of receipts) and $106,431.98 (150 per cent of receipts) respectively. Notwithstanding these losses for the years in question and similar losses in the nine prior years, the court held that the losses were sustained in the business of farming and so deductible under Section 2B of the Act of October 3, 1913. The Government had naively argued that Mr. Plant was farming for pleasure and not for profit, but the court said, at page 725:

". . . the evidence establishes clearly that Mr. Plant's farm was conducted as a business enterprise and with the expectation that it would eventually become profitable. The mere fact that a heavy loss was incurred in the initial stages of so large an enterprise does not necessarily show the contrary. But, even though this is not so, I do not believe that farming, when engaged in as a regular occupation and in accordance with recognized business principles and practices is any the less a business within the meaning of the statute, because the person engaging in it is willing to do so *without regard to its profitableness, because of the pleasure derived from it.*" [Emphasis supplied.]

In the same year, *Wilson* v. *Eisner*[7] held that raising and breeding horses for exhibit and racing was a business since all the essentials of a business were present in the taxpayer's activities—a regular place of business, income, books showing business transactions, personal attention, etc. The court held that the fact that the taxpayer received pleasure from the sporting nature of his business did not change its character, nor did his recurring losses.

[1] This particular personal benefit to the taxpayer distinguishes the farm situation from other "hobby" enterprises for the purpose of this analysis.

[2] INT. REV. CODE OF 1954, § 165(a).

[3] INT. REV. CODE OF 1954, § 165(c)(1)(2).

[4] Tariff Act of October 3, 1913, § IIB, provided for deduction of losses incurred in "trade". Revenue Act of 1916, § 5(a), provided for deduction of losses incurred in "business or trade".

[5] Treasury Regulations have been less timid and incorporate the requirement of a profit motive. See Treas. Reg. § 1.165-6(a)(2)(3) (1960), and Treas. Reg. § 1.162-12 (1958), as amended, T.D. 6548 (1961).

[6] 280 Fed. 722 (D. Conn. 1922).

[7] 282 Fed. 38 (2d Cir. 1922).

Again in the same year, *Thatcher* v. *Lowe* [8] held that a farm operated by a lawyer at his residence was not a business since it was not conducted for profit. The facts before the court were meager, since the taxpayer had died and the only evidence showed a two-year period in which farm expenses exceeded receipts by some $13,000. Judge Learned Hand used the large disparity between receipts and expenses to conclude there was no business for profit since there was no evidence to the contrary. Judge Hand chided Judge Thomas for his dictum in *Plant* v. *Walsh* on the question of profit from an activity, by saying, at page 995:

". . . It does seem to me that if a man does not expect to make any gain or profit out of the management of the farm, it cannot be said to be a business for profit, and while I should be the last to say that the making of a profit was not in itself a pleasure, I hope I should also be one of those to agree there were other pleasures than making a profit. Indeed, it makes no difference whether a man is engaged in a business which gives him pleasure, if it be a business; that is irrelevant, as was said in Wilson v. Eisner. But it does make a difference whether the occupation which gives him pleasure can honestly be said to be carried on for profit. Unless you can find that element it is not within the statute."

These cases established the principle that the test to determine whether an enterprise is a trade or business is the taxpayer's intention to obtain a profit instead of recreation or pleasure. They set a pattern for subsequent decisions by providing a broad basis of selection for divergent views on the requirement of a profit motive before an enterprise is treated as a trade or business. Nonetheless, courts always required a modicum of intention for profit, notwithstanding the absence of any language to that effect in the Internal Revenue Code.

The crux of the problem remained whether intention to obtain a profit was present when a taxpayer has operated a farm for many years and incurs a loss each year. Does he have a profit motive to start with? If so, has he lost it during the ensuing years? Did he lose it at one time but regain it for the years in question? Of course, the taxpayer has the burden of proving that his intention was profit, but in the face of continued losses that would seem to be a heavy burden. Oddly enough, the courts which read the necessity for a profit motive into the statute in the first place did their best to evade a strict application of their test by concluding in the majority of cases that a particular enterprise was a business if the taxpayer testified that his intention was to make a profit sooner or later, and that he operated his farm in a businesslike way even if the likelihood of profit was extremely small.[9]

One explanation for these decisions may be the basic premise of our economic structure that profit is the motive for all private investment in the means of production. The courts are put in the uncomfortable position of discouraging private investment if they disallow the deduction since without the deduction few taxpayers would be willing to lose money year after year in an unprofitable enterprise, whether it be a farm or some other kind of business. A classic case which underscores this theory is *Commissioner* v. *Marshall Field*,[10] which held that Field's farm was a business for profit. The findings of the Board of Tax Appeals [11] showed that in 1920 Field bought 1,700 acres of land, set aside 500 acres for a farm and used the remainder as a summer estate upon which a substantial house was built. He raised Guernsey cows and operated a dairy. Separate accounts for the farm were kept by a full-time bookkeeper and an experienced farm manager supervised the operation. From 1924 to 1928 his farm losses exceeded $60,000 per year with a high in excess of $85,000. The commissioner denied deduction of the loss for 1923 and an appeal was taken on the ground that the losses did not change the character of the farm as a business conducted for profit. The Board of Tax Appeals reversed the commissioner, placing emphasis on taxpayer's testimony that he intended to make a profit. The Court of Appeals for the Second Circuit affirmed, saying, at page 878:

"If the right to deduct losses under the statute required that profit appear to the Court to be possible, that requirement would be quite general and would be applicable to any enterprise whether it was farming, manufacturing or promotion of any character. *We may not in this way foredoom any business venture.*" [Emphasis supplied.]

Similar reasoning was applied to an entirely different kind of business in *Doggett* v. *Burnet*,[12] where the publishing and marketing of books was involved. The court said, at page 193:

"The Board in its decision denied the deduction on the ground that appellant has failed to show that the alleged business of publishing and marketing the books of Joanna Southcott has been profitable, or that there is prospect that it will be profitable. We think this is too severe a limitation to be placed upon the determination of what constitutes a business within legal contemplation. *In other words, to hold that the legal test of whether or not an occupation constitutes the doing of business, depends on whether it is profitable or has prospects of being profitable is too restrictive an interpretation of the revenue act.* It deprives the taxpayer of the liberal construction to which he is entitled." [Emphasis supplied.]

It is readily apparent from the *Marshall Field* and *Doggett* decisions that courts were reluctant to deny the reasonableness of a professed intention to make a profit since the test applied to *all* businesses and there were serious economic implications if private investment were discouraged.

In 1939, a memorandum of the chief counsel examined many of the prior decisions in point and concluded that there must be a reasonable expectation of profit under the facts of each case, but that recurring losses do not necessarily indicate that the prospect of profit is not reasonable or that the taxpayer's intention is not to make a profit.[13] This conclusion appears contradictory, since continued losses over a number of years seem logically to negate the reasonable expectation of profit.

Congress considered the matter in 1944, when Senator Danaher said: [14]

"Many persons with large sources of income from dividends, salaries or businesses seek to avoid the payment of taxes in the measure computable under the statutes by diverting large portions of the income, or large blocks of capital, into collateral fields wholly independent of the source from which their original gross income was computable.

"That is particularly true of that type of operation which may be called the hobby form of investments. Time and time again the Commissioner of Internal Revenue has sought to reach the losses which have been taken by individuals from the operation of hobbies. In every single case which has gone to the courts, so far as I know, and so far as research discloses, the Commissioner has lost, simply for the reason that the Congress has never made it plain that its intention is to permit as legitimate deductions the cost of operating a business which has produced income."

Senator Danaher may have missed a few cases in which the taxpayer was the loser, but it is clear that he meant the Marshall Field situation. Eventually Congress enacted Section 130 of the Internal Revenue Code of 1939, Section 270 of the 1954 code.[15] Section 130, referred to as the "hobby amendment" or the "Marshall Field amendment",[16] limited a deduction for losses from a trade or business, when there are losses for five consecutive years, by providing a recomputation of the taxable income for those years and allowing the deduction only to the extent of the gross income derived from the trade or business, plus $50,000. This is hardly more than a slap on the taxpayer's wrist, but the Conference Committee went further and noted that the limitation applies only to a trade or business and is not to be used to determine whether an activity is in fact a trade or business within the meaning of the code.[17] The legislative history of the Internal Revenue Code of 1954 does state that the purpose of the limitation is to prevent the deduction as business losses of expenditures on hobbies, such as racing stables and recreational farms.[18] In any event the limitation did not eliminate the basic problem despite the fact that it was enacted in direct response to the *Marshall Field* case.

Subsequent decisions have done little to remedy the situation, each case being decided under its own facts according to the philosophy of the particular judge as to what motivated a taxpayer to continue to operate a losing business. Most of these decisions have allowed the deduction [19] unless the taxpayer's proof was wholly inadequate.[20]

An interesting recent decision is *Godfrey* v. *Commissioner*,[21] which disallowed the farm loss deduction of an executive of the General Motors Corporation on the ground that it was not incurred as a business. The Tax Court's decision [22] advanced the idea that the test of a business is twofold, *i.e.*, (1) the taxpayer's motive and intention to make a profit and (2) the activity must be the *present* operation of a business, not preparation to operate one. The court concluded that the taxpayer was not currently carrying on a business for profit since he did not have enough land to support the number of cattle needed to turn a profit, his expenses were underestimated, future sale prices overestimated and too much had been spent on the house in comparison to the rest of the farm. The Court of Appeals for the Sixth

[8] 288 Fed. 924 (S.D. N.Y. 1922).

[9] See *Thomas F. Sheridan*, 4 B.T.A. 1299 (1926); *Samuel Riker*, 6 B.T.A. 890 (1927); *August Merckens*, 7 B.T.A. 32 (1927); *Moses Taylor*, 7 B.T.A. 59 (1927); *Hamilton F. Kean*, 10 B.T.A. 97 (1928); *Commissioner* v. *Widener*, 33 F. 2d 833 (3d Cir. 1929); *Edwin S. George*, 22 B.T.A. 189 (1931); *James Clark*, 24 B.T.A. 1235 (1931); *Laura M. Curtis*, 28 B.T.A. 631 (1933); and *Israel O. Blake*, 38 B.T.A. 1457 (1938).

[10] 67 F. 2d 876 (2d Cir. 1933).

[11] 26 B.T.A. 116 (1932).

[12] 65 F. 2d 191 (D.C. Cir. 1933).

[13] G.C.M. 21103, CUM. BULL. 1939-1 (Part I), page 164.

[14] 90 CONG. REC. 224-32 (Remarks of Senator Danaher). Note that when the production of income is mentioned in the last sentence of the quoted material it is believed taxable income is meant rather than income in its broadest meaning.

[15] 58 Stat. 21, 129(a)(b).

[16] See *Arthur* v. *Davis*, 29 T.C. 878, 888 (1958).

[17] H. Rep. No. 1079, 78th Cong., 2d Sess. 56-57 (1943).

[18] S. Rep. No. 1622, 83d Cong., 2d Sess. 198 (1954); H. Rep. No. 1337, 83d Cong., 2d Sess. A46 (1954).

[19] See, for example, *Norton L. Smith*, 9 T.C. 1150 (1947); *Tatt* v. *Commissioner*, 166 F. 2d 697 (5th Cir. 1948); *Dean Babitt*, 23 T.C. 850 (1955); *Dupont* v. *United States*, 234 F. Supp. 688 (1964).

[20] See, for example, *Coffee* v. *Commissioner*, 141 F. 2d 204 (5th Cir. 1944); *Morton* v. *Commissioner*, 174 F. 2d 302 (2d Cir. 1949); and *Teitelbaum* v. *Commissioner*, 294 F. 2d 484 (7th Cir. 1961).

[21] 335 F. 2d 82 (6th Cir. 1964), *cert. denied* 379 U.S. 966 (1965).

[22] T.C. Memo 1963-1.

Circuit affirmed on the grounds that taxpayers' dominant motive was to establish a country estate rather than a business and that the scope of appellate review of findings of fact is extremely limited. The court of appeals did not comment on the Tax Court's "not currently in business" theory, but it seems far fetched under the facts of the case since Godfrey had operated the farm for some sixteen years.

Three other cases,[23] along with *Godfrey*, point out how far the courts are at present willing to go on the question of determining whether the taxpayer really expects to make a profit, and they have actually computed the acreage, animals, crops, etc., needed to make a profit. These cases may indicate a trend away from the liberal treatment of farm loss deductions in the past, but the facts of the cases were decidedly not in the taxpayers' favor, and the determination of intention is, after all, a question of fact. In any event the finder of fact will continue to be faced with the burden of predicting whether a particular farm can possibly earn a profit at some future time since taxpayers will undoubtedly persist in declaring that their intention is a profit. The uncertainty of such business forecasting can only result in an increased patchwork of case law and the loss of substantial tax revenue.

For example, one taxpayer's farm had been operated for more than thirty years and had successive losses that had steadily increased over the years and that amounted to more than $20,000 per year for the last ten years. A reasonable man would be hard pressed to conclude that the taxpayer was operating his farm for profit and had done so with a reasonable expectation thereof, yet the Internal Revenue Service settled this case out of court for 50 per cent of the assessed deficiency for the years in question. The appellate conferee was uncertain of the outcome if the question were litigated. A settlement of this type does not become part of the public record and therefore the number of similar settlements cannot be determined, but it does make the dilemma of the Internal Revenue Service in this type of case quite apparent, and it indicates that a substantial amount of tax revenue is being lost.

Congress clearly had the opportunity to provide proper guidelines for the so-called hobby cases (a misnomer since the tax saving discussed previously[24] is a prime consideration and tax planning is a wise business decision) when it enacted Section 130 of the Internal Revenue Code of 1939,[25] but it chose to avoid a meaningful clarification of the general trade or business test. It would seem that Congress ought to consider the matter once again. One possible definition of trade or business under Section 165(c)(1)[26] might read as follows:

"Definitions—For purposes of paragraph (1)—

"(A) Trade or business—The term 'trade or business' means an activity which is carried on in good faith and with a reasonable expectation of profit. In the event that an activity has suffered a net loss for a period of five successive years it is presumed that expectation of profit therefrom is not reasonable unless clear and convincing evidence to the contrary is presented."

This limitation on expectation of profit could not harm the ordinary farmer or other businessman, since without profit they cannot survive, nor would it harm the taxpayers who are bona fide operators of losing businesses, since their potential profit could easily be shown. It might persuade some extraordinary farmers and other hobbyists to return to the basic concept of capitalism.

[23] *Bertha R. Conyngham*, T.C. Memo 1964-194 (projected inability to make a profit); *Alfred M. and Helen B. Cox*, T.C. Memo 1965-5, *aff'd per curiam* 354 F. 2d 659 (3d Cir. 1966) (mere operation of a farm not enough), and Ellen R. Schley, T.C. Memo 1965-111 (indifference to profit).

[24] See the first paragraph of this article.

[25] See note 14.

[26] INT. REV. CODE OF 1954.

## THE PUBLIC BE DAMNED

Mr. WILLIAMS of Delaware. Mr. President, the distinguished junior Senator from Arizona [Mr. FANNIN] has been in the forefront of a battle calling national attention to the marathon labor dispute in our Nation's copper industry. I invite the attention of the Senate to his efforts and to an article which mentions him and the distinguished Senator from Utah [Mr. BENNETT] as two legislators who are vitally concerned in this matter.

The Nation has suffered too long by the insistence of ambitious union leaders that their demands for additional power be met, no matter who is damaged. An article published in Barron's, an outstanding financial weekly, points out that union leaders presently are the only people on the national scene who apparently can say, "the public be damned," and get away with it.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"THE PUBLIC BE DAMNED"—SOME SECOND THOUGHTS ON THE RECORDBREAKING COPPER STRIKE

Once a run-of-the-mill affair, the production and sale of copper (as we remarked in mid-December) of late has been anything but business-as-usual. Within the past week or so, indeed, the industry has come to resemble a disaster area. After a recent visit to the depressing scene, one veteran observer reported: "Mammoth electric shovels and rotary drills sit toy-like on the shelves of a silent mine; a train of 80-ton dump cars rusts on its snowy floor. . . ." To Wall Street's dismay, Anaconda Co., world's largest producer of the red metal, lowered its quarterly dividend from 62½ cents per share to 37½ cents, a drastic move which slashed $100 million off the company's market value and plunged its stock to a 15-month low. Meanwhile, spokesmen for the United Steelworkers of America and 25 other striking unions unanimously rejected a compromise formula advanced by a federal panel.

After our previous appraisal of the copper imbroglio, titled "Idle Theories, Idle Men," we concluded that "there's plenty of blame to go round," an unexpected stroke of journalistic statesmanship that charmed the senior Senator from Montana, with whom we rarely see eye-to-eye, into paging the Congressional Record. However after a second harder look—based in part on information which only now has come to light—Barron's is pleased to scrap its former evenhandedness and part company with Mike Mansfield. While the industry by its misguided pricing policies, doubtless helped precipitate and prolong the dispute, at least two small producers, which just settled with the union, have shown encouraging signs of opting for the free market. In particular, Calumet & Hecla has increased its offering price five cents per pound, to 43 cents, while Copper Range, by weighing the London Metal Exchange in the domestic scale, has moved up to 50 cents.

Elsewhere on the strike front, contrariwise, things have gone from bad to worse. By turning down the government's proposed compromise (which could scarcely have recommended itself to management, either), organized labor has drawn the issue not over wages or working conditions but squarely over company- (or industry-) wide bargaining, with which it seeks to replace traditional and legally established local settlements. In its thrust for power, moreover, it has enjoyed the tacit support of the National Labor Relations Board, which, during the past four months, has put off ruling on charges by Kennecott Copper Corp. that the union demands constitute an unfair labor practice. Finally, the White House, by failing to invoke the Taft-Hartley Act, continues to sanction a shutdown which, among other ill effects, is worsening by an estimated $1.5 billion per year the critical shortfall in the U.S. balance of payments. Businessmen, bankers and even simple tourists may cause a national emergency, but these days, evidently, Steelworkers can do no wrong.

As of last Wednesday, Anaconda's hundred-thousand shareholders could scarcely afford to agree. Their losses, in dividends and capital values alike, nonetheless fall far short of those imposed upon the hapless copper workers and mining communities throughout five Western states. True, the benevolence of producers (who realize that the strike will end someday and want to hold on to skilled hands) has eased the immediate hardship for many. Phelps Dodge, for example, gave out bonus checks for Christmas, stopped collecting rent on company-owned dwellings and actually is paying strikers $35 a week for the duration. Long-range, however, the financial impact has been severe. According to the Salt Lake City Tribune, each worker has forfeited $4,269 in wage income, a loss which, on even generous view of the terms of the ultimate settlement, will take over 20 years to make up. As to the community, according to Sen. Bennett: "In Utah alone the strike has cost the state more than $82 million in revenues . . . while the cost in terms of lost opportunities and sacrifices—such as small business bankruptcies—cannot be measured."

On this score, as Washington has just begun to realize, the nation's balance of payments has suffered worst. While belatedly awakening to the threat, officialdom continues to underrate its magnitude. At over 70 cents per pound, the level to which foreign copper lately has climbed, the tonnage of imports required to meet current U.S. consumption adds up to $80 million per month, or an estimated billion dollars per year. Such calculations, however, ignore the relentless depletion of inventories, which someday must be rebuilt, as well as the loss of zinc, lead and by-product silver and gold. All told, the burden on the nation's global accounts doubtless runs half-again as high.

The inordinate length of the strike, now well into its eighth month, and the size of the losses involved, suggest that what's really at stake cannot be measured in terms of wages and hours or dollars-and-cents; it must be weighed on the scales of power. Specifically, the United Steelworkers, after merging last summer with the Mine, Mill and Smelter Workers, are seeking to abandon existing bargaining units, most of which are at the local level, and negotiate company- or industry-wide contracts. Such a shift would be bad in practice—most copper concerns, after all, are highly diversified ventures with many different kinds of operation under one corporate roof. (Even the President's fact-finding board, while displaying no great expertise otherwise, recognized three oversimplified subdivisions—copper mining, smelting and refining; lead and zinc mining; and wire, cable and brass fabricating—and urged bargaining along these lines.) In principle, it would replace local decision-making with centralized authority, thus leading to the vast aggrandizement of an already formidable collective power.

Theory and practice aside, organized labor's chief demand apparently doesn't have

a legal leg to stand on. The much-abused local bargaining units, which the fact finders sought to deprecate by calling on employers to heed "not only new structural realities but (sic) new motivations on the part of union members," have long been officially certified as appropriate. On such grounds, indeed, Kennecott Copper Corp. in mid-October filed a complaint with the National Labor Relations Board charging the unions with "importing an extraneous issue into the bargaining situation" and "insisting to the point of impasse" upon its settlement, thus in effect refusing to bargain in good faith. While the NLRB is supposed to dispose of complaints within 60 days (and, when union grievances are involved, frequently takes no longer than two-to-four weeks), it has kept the issue under wraps for the past four months. "I submit," so Sen. Paul J. Fannin (R., Ariz.) will state today on the Senate floor, "that such an exhaustive study would not be required if this were a complaint against a company, or if the President did not have a personal interest in the case on the side of the unions . . . If the NLRB had handled the case within its normal pattern, we well may have had a settlement by now in copper."

Last Friday union disregard of due process escalated when the International Longshoremen's Association, in lofty disdain for Taft-Hartley's ban on secondary boycotts, announced that ILA members no longer would handle copper exports or imports, a move that can only aggravate the crisis. How the White House will respond remains to be seen, but this much is clear. In the Great Society, labor leaders are the only ones who can say with impunity: "the public be damned."

## PRESIDENT JOHNSON URGES ACTION ON PROBLEM OF WATER POLLUTION

Mr. MONTOYA. Mr. President, President Johnson, in his conservation message, has dealt with the serious problem of sediment as the major pollutant in surface waters of the United States. About a million tons of sediment is carried annually to the oceans by the Nation's rivers. Yet this amount is only about one-fourth of the total sediment washed off the land every year. The rest settles to the bottom of streams, lakes, and harbors, polluting the waters with valuable topsoil.

Experts tell us that a billion and a half cubic yards of sediment is deposited each year in our major reservoirs, reducing the Nation's water-supply capacity by an amount of water needed for a city of 5½ million persons for a year.

The Rio Grande River is rising an inch a year through siltation, reducing the waterholding capacity of the channel and causing more frequent floods.

The harbor of Cleveland, Ohio, is dredged every year, and each time about 800,000 cubic yards of sediment is removed at a cost of 56 cents a cubic yard.

We know that sedimentation costs the Nation millions of dollars every year. Suspended sediment reduces the capacity of reservoirs, hampers navigation, impairs oxidation of organic pollutants, requires expensive treatment of water supplies for municipal and industrial needs, destroys fish and wildlife habitat, denies the use of streams and lakes for recreation.

Most sediment comes from soil erosion on agricultural lands. But an increasing amount of it comes from urban expansion into the countryside where land is stripped of its natural cover and left idle for long periods without proper conservation treatment.

The U.S. Department of Agriculture provides technical and financial assistance to more than 2 million landowners cooperating with over 3,000 soil and water conservation districts throughout the Nation in a cooperative effort to establish sound conservation systems that will reduce soil erosion and prevent the sedimentation of streams. USDA also is working with community planners, land developers, engineers, and others to help assure a stable soil during and following urban development.

Sound land use decisions, both rural and urban, are being made on millions of acres of land based on information about the soil obtained through cooperative State-Federal soil surveys. There are at least 70,000 different kinds of soil in the United States. Some is suitable for agriculture, some for construction—others not. Some soil should be left undisturbed to support native vegetation—as forests, parks, and wildlife refuges.

Legislation which has been introduced in the Congress supports and enhances the national effort to prevent serious losses of the Nation's soil and water resources and to private and public properties, and to protect the public health, safety, and general welfare where these are threatened by polluted waters and other results of soil erosion.

Every citizen is affected, in one way or another, by the serious consequences of stream pollution. Sediment, as the chief pollutant, is a grave threat to the quality of the natural environment which we must strive to improve as a matter of primary national interest. Legislation designed to strengthen existing sediment control programs deserves the enthusiastic support of every American.

I urge my colleagues to support new studies and programs recommended by President Johnson to bring this serious problem under control.

## MAIL TO VIETNAM: RESOLUTION OF THE GENERAL COURT OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. President, the General Court of Massachusetts recently memorialized the Congress regarding mailing of packages to our servicemen in Vietnam. This is a thoughtful resolution. I ask unanimous consent that it be printed in the RECORD at this point for the information of my colleagues.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF MASSACHUSETTS RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION PROVIDING FOR THE MAILING OF PACKAGES, POSTAGE FREE, TO AMERICAN SERVICEMEN IN VIETNAM

*Whereas,* No effort should be spared in maintaining constant communication between members of the armed forces of the United States serving in Vietnam and their relatives and friends; and

*Whereas,* Such communication should be facilitated to the fullest degree; now, therefore, be it.

*Resolved,* That the general court of the commonwealth respectfully urges the Congress of the United States to enact legislation providing that packages not exceeding seventy-two cubic inches in volume or ten pounds in weight which are mailed to such servicemen shall be exempt from all charges for postage; and be it further

*Resolved,* That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the Postmaster General, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

House of Representatives, adopted, February 19, 1968.

WILLIAM C. MAIERS, Clerk.

Senate, adopted in concurrence, February 26, 1968.

NORMAN L. PIDGEON, Clerk.

A true copy.
Attest:

JOHN F. X. DAVOREN,
*Secretary of the Commonwealth.*

## HOUSING PROPOSALS

Mr. TOWER. Mr. President, the Senate Subcommittee on Housing and Urban Affairs of which I am the ranking Republican member, is presently holding hearings on the administration's housing proposals for 1968.

Secretary of Housing and Urban Development, Robert C. Weaver, concluded his testimony before us yesterday, and the administration's push for greater-than-ever Government involvement in housing as conveyed to us by him is disturbing indeed.

The overall portent of the administration's inclinations in the area of housing requires that we examine closely the path we are asked to trod in the name of need and urgency, and that we strive to keep that which is the proper responsibility of the Federal Government and that which is the proper responsibility of the local community, its government and its individual citizens in their proper perspective.

The problems of our cities are many, but in my opinion the dominant overriding problem in need of a speedy solution is that of providing decent housing for the many low-income families that live in our Nation's slum areas.

Late last year our committee reported out a bipartisan housing bill that set out several innovative approaches to the production of low-income housing, including what was for the most part a Republican-initiated emphasis on homeownership and low-income housing needs in general. We made a good start, but as in every legislative endeavor, there is always room for improvement through our deliberative efforts.

Secretary Weaver stated to us this week that—

Federal assistance for homeownership has been very limited.

In reality, assistance for low-income families has in the past been practically nonexistent, but now is at the forefront of the administration's attention, largely, I believe, as a result of Republican initiative in this area.

Of course, I am pleased that the administration has recognized the merit

of this homeownership concept by carrying it forward in its 1968 proposal. However, there is altogether too little recognition of just who really needs Government assistance and is justified in receiving it.

I am concerned over the apparent administration philosophy that encourages an ever-increasing reliance upon the Federal Government for fulfilling the housing needs of our citizens, a philosophy that in effect will destroy the incentive of the individual to improve his living conditions through his own efforts.

At the same time, low-income housing needs would be pushed to the background and be allowed to fall into the same old pattern of ineffectiveness characterizing Government activities in this area in the past.

And, those that struggle and strive to pay their own way in life would be asked by the advocates of this philosophy to more and more carry somebody else's share.

The goal of a decent home for every American family is, I feel, an achievable goal. But, in seeking this goal we must guard against a legislatively induced erosion of individual initiative and responsibility. There is no such assurance from the administration.

In the past, Government housing programs originally conceived and enacted to benefit families at the low-income level have all too frequently accommodated those at the higher end of income eligibility levels, in effect bypassing the low-income families truly deserving of housing assistance.

The higher that program eligibility levels have been set, the more program benefits have been channeled toward families of comparatively higher incomes. These families have generally come to be described as moderate-income families, a description that is deceptively vague. We are clearly told that the scheme of things to come simply will not allow a confinement of Government involvement to low-income needs. The planners have much more than that in store for us.

Overly ambitious production goals are held out that take little cognizance of the practical capacity of our productive system. The Government's position in overall production would be edged ever and ever upward to a position of unreasonable and unjustifiable proportions, all the while wrapping this activity in a cloak of concern for the disadvantaged. A close scrutiny of those that would be benefited by the administration's proposals will pierce such an illusion.

Both with respect to existing Government-assisted housing programs and the proposals now under consideration, I feel that we should strive to do the most good where it is the most deserving—that is, we should give priority to low-income housing over so-called moderate-income housing. There is no such priority by the administration.

We should reach out to assist those who but for such assistance could not decently house themselves. We should resist the philosophy which urges us to reach out and subsidize higher incomes, and we should demand that housing produced with direct Government assistance be devoted to true low-income housing. There is no such emphasis in the administration's proposals.

If the Government is to subsidize it should confine its involvement to serving the needs of those that are disadvantaged. Those funds that can be made available for Government-aided housing should be devoted to this area of great need. Past program experience has failed to do this. Funds are not so earmarked now. We are long overdue for a reversal of this unfortunate misdirection.

It is my full intent to work for approval of legislation in my committee that recognizes and will reverse the administration-inspired trend away from meaningful progress in the area of true low-income housing.

Progress will certainly not be forthcoming if we accept the administration's philosophy on housing. That philosophy reflects a refusal to shelve the schemes and social experimentation of some of our Washington planners and a refusal to place an emphasis on solving the housing needs typified by the families that dwell in our slum neighborhoods.

There are some 14 million families in our country who have incomes of under $5,000. They constitute approximately 28 percent of all our families.

These families are by any measurement the families who are least able to provide for their housing wants. Theirs is the income reflected in our present urban crisis. If there is to be direct Government assistance, these are the families among which the greatest housing need exists.

Whatever the amount of money we can allocate for our Government to expend in the area of housing, this is where the money should be concentrated.

But many in the administration evidently just cannot bring themselves to confine legislative ambitions to this plain and obvious fact.

The administration thus would ignore past program disregard for these needy families. Instead it advocates legislation more susceptible than ever before to missing the plainly evident need facing our slum neighborhoods. It would dilute the effectiveness and proper direction of urban spending even further than in the past.

Administration proposals, such as are before our committee now, would overshadow true low-income families with an outburst of gratuitous concern for the imagined needs of families with so-called moderate incomes. We are asked to assume that somehow our needier families will fit into the picture.

The administration seeks to convince us that 46 percent of our families that make up to $7,000 a year, or almost half of all our families, cannot afford to adequately house themselves without some degree of support from their Government. I find little to support such a contention.

Beyond this, the administration would even propose as eligible for Government housing assistance those families earning as much as $10,000 a year. I cannot believe that there is validity in this contention either.

Approximately 70 percent of all American families make up to $10,000 in annual income.

If this proposed trend toward increased Government involvement in housing were in fact to occur, we would become a nation inordinately dependent upon its Government for housing, contrary to everything that our form of government and way of life is based upon.

And, with past experience showing us that those at the lower end of the income scale tend to lose out in the eligibility competition, it is easy to anticipate how the slum dweller, like those in the areas surveyed by the President's Riot Commission, who for the most part makes $5,000 a year or less, will view the lipservice that is being paid him by proposals that would reach out for such high incomes.

Likewise, it is equally easy to anticipate the reaction to such a trend by the American taxpayer who would be called upon to pay the bill.

This does not mean that we must abandon awareness of the problems of our cities. It simply means that we must realistically identify where the true need exists and using what we have available to do all the jobs that there are to be done, allocate priorities.

We should get down to facts and cease the seemingly endless delusions that have been moved before the eyes of our citizens who live in an atmosphere of deterioration and hopelessness.

We should help those that truly cannot help themselves, and encourage those that can help themselves to participate in bettering themselves to the fullest.

We should stop perpetuating those schemes that hold out only unfulfillable promises and demand that ineffective programs justify their legislative existence.

And, we should give long overdue recognition to the fact that our country's urban housing problems will not be appreciably solved until we create meaningful legislation that will make possible the maximum use of the skills and resources of our great free enterprise system and the entire private sector, including every one of our citizens.

Every family in every one of our cities, communities and neighborhoods, no matter what its financial means or status, will certainly respond to the fullest if offered encouragement and a helping hand by the Government rather than being offered only the prospect of complete reliance on the Government.

## COPPER DEADLOCK

Mr. FANNIN. Mr. President, since Monday morning representatives of companies and unions involved in the 8-month copper industry dispute have been meeting at the White House. There has been no appreciable progress, at least to those of us not directly involved in the talks. This is a sad situation and it cannot continue. The suffering is too great, the costs are too high, and the penalties exacted from those least able to bear them are insurmountable.

Mr. President, I have deliberately remained silent after the President intervened in this matter, to give the administration an opportunity to achieve a just settlement, fair to both sides. But the time has come to speak out again, because the administration is stalling. The executive branch is not doing everything it can to seek a settlement. I fear the President has been intimidated by the threats of arrogant union leaders. Let me cite an example:

A story in the Baltimore Sun of February 29 says in part:

> The chief union negotiator in the nationwide copper strike threatened the Johnson Administration last night with the loss of labor support in the November elections.
>
> Joseph P. Molony, vice president of the United Steelworkers of America, told some 500 striking copper workers here if "our friends in Washington" are "neutral" in the strike then I'll be neutral next November.
>
> "Remember," he told the strikers, "the hottest corner in hell is reserved for those who remain neutral" in times of crisis.

Can one imagine the outcry that would go up if a spokesman for management spoke to the President in those terms. The roar would be deafening and the demand for an adequate rebuke for the offender would rise from the Congress, from editorial writers, TV and radio commentators, the pulpits—from every source with voices to be heard. But little attention is paid to the tongue lashing which a vice president of a labor union gives the President himself. Instead, as if Mr. Molony had pressed a button, comes forth the announcement from the White House that a round-the-clock bargaining session on copper will begin. The spokesmen for big labor have tremendous political power, which the Congress and Government have given them.

I hope, Mr. President, that the abusive and corrosive language heaped upon the President of this great Nation by the union's chief negotiator is not responsible for the present impasse that apparently exists in the copper talks.

But whatever the facts of that situation may be there is another matter which has already occupied the attention of this body, and particularly of the distinguished majority leader [Mr. MANSFIELD] and myself.

Just to briefly recite the facts of this case, Kennecott Copper Co., one of the four major producers involved in this dispute, filed a charge with NLRB on October 18, 1967. This action specifically charged the steelworkers and other unions with insisting on nonmandatory conditions of bargaining and thus committing an unfair labor practice by refusing to bargain.

I received information that the NLRB's general counsel had decided to file a complaint against the union, after some 4 months of "studying" the case, and hopefully this would open the way for some kind of bargaining to resume.

Regretfully, I must inform the Senate that apparently this has not been done. An additional 10 days have elapsed and all the information I have indicates that the NLRB is still dragging its feet and no complaint has been filed. Of course I can understand why the unions do not want a complaint to be filed, because under the Taft-Hartley Act when a complaint has been filed a temporary restraining order may be issued and the offending parties, in this instance the unions, can be held in contempt of court if they continue to insist on a nonmandatory condition of bargaining. I say I can understand the position, Mr. President, but I cannot understand the failure of this administration simply to insist that the law be enforced. The President can insist on enforcement, and he should do it—today.

May I say that I am increasingly concerned that the White House manages to get involved in practically every important labor dispute. Then when the chips are down the union leadership, feeling that the President will ultimately come to their aid and bail them out, insists on higher and higher wage settlements that lead to higher and higher prices. This process is not the free and uncoerced bargaining that we are trying to protect in this country. And I may point out that it will ultimately be as detrimental to the labor movement as it appears presently to be to management.

Someone has described inflation as, "That empty feeling when you reach in your pocket to pay your bills." Mr. President, I think each Member of the Senate should realize that their constituents are going to be affected by the settlement that must come in this basic industry soon. Everyone who buys an automobile, everyone who buys a refrigerator, an air conditioner, a toaster, an electric iron, anything utilizing an electric motor, will find that all these products cost more.

We have suffered a fantastic cost in our balance of payments, a tremendous problem with tax revenues, and the economic hardships imposed upon families is incalculable. It is past the time that this administration faced up to the hard choice with which it is confronted and uses every legal means to achieve a settlement for the good of all the people, consumers, workers, and producers.

Mr. President, I ask unanimous consent that a series of three articles appearing in the Arizona Republic detailing the situation in the copper-producing States, a labor column by Mr. Victor Riesel, and a special report from CBS–TV on copper, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE STRIKE: NO SMOKE IN AJO NOW, BUT LOTS OF DEBTS

(EDITOR'S NOTE.—With the nationwide copper strike well into its eighth month, The Arizona Republic sent a veteran reporter on a tour of state mining communities to learn how they are making out. This is the first of his reports.)

(By Don Dedera)

AJO—In a cage in a side-street flower shop here lives a minah bird named Alex that has been taught to cough, then moan, "That darn smelter smoke!"

These days, Alex is just about the only resident of Ajo without a legitimate complaint.

The towering smelter stack gives forth no fumes, and nearby the open pit mine which is the third largest copper producer in the nation is as quiet as a crater on the moon. For the first time in history Ajo, where copper mining began in 1853, is shut down by a formal strike.

Not since July have 1,400 miners, millhands, smelter workers and allied craftsmen drawn a steady paycheck. Not broke, this town is financially badly bent. Residents who take pride in Ajo's stamina and resourcefulness so far are beginning to worry about the long-range damage to the town, if the strike continues much longer.

This is not to say that Ajo has dried up and blown away into Mexico, just 40 miles to the south. Strike or no strike, the town is bustling with local motorists, shoppers, schoolchildren, tourists and talkers around the neatly landscaped central plaza. The cash flow of Ajo is still considerable.

"Nearly all businesses are off," said Louis Stone, downtown department store operator. "But some are doing surprisingly well. The money isn't all gone from Ajo."

For one thing, Phelps Dodge is in the odd position of partly financing the strike. The company from the beginning has extended an average $35-per-week credit to family men at its company-operated store. Interest-free, the store credit, together with deferred rent for company housing, has kept Ajo surviving if not solvent.

In addition, the company has expedited vacation bonuses, and income tax refunds. The striking unions also have been paying from $40 to $150 per month in picketing fees and strike relief.

Then, too, hundreds of strikers have gone away to work in Phoenix or on the West Coast or elsewhere, and they are sending money to the families they left in Ajo. They don't want to lose their Ajo homes, most of which rent for about $30 a month, plus utilities but with maintenance by the company.

Jack Petersen is elementary school principal. He said enrollment is off about 100 pupils from the normal 1,300 student body. There has been no change in the school lunch program—no increase in students qualified for free lunch. To Petersen, the students seem as well-dressed as always, thanks in part to a special store credit for school needs last fall.

Among small businessmen, conditions range all the way from fair to dismal.

Virgil Downey at the Standard Station retains a brisk gasoline trade (some to sportsmen to and from Rocky Point, Mexico), but lubrication and tire sales are rare. Mary Anderson at the flower shop didn't sell a fresh blossom for two days, but she said Ajo continues to pay floral tribute to its dead and newborn. And vegetable seeds for home gardens are selling like sin.

Al Schneck, television repairman, indicates Ajo's basic prosperity of the past with, "Almost every house in town has a television set. Those that don't have one, have two."

Ajo is watching more television than ever, and yet Schneck's business is off 40 per cent, which probably means that Ajo's mechanically handy men are fixing their own.

Tom Alley, 38 years an Ajo citizen, a former county supervisor, four times president of the chamber of commerce, is managing to keep his saloon open.

Mr. and Mrs. Harry Miguel, with plenty of time on their hands, come in for a 9 a.m. draft beer. But the one-time big-spending miners nowadays are more likely to buy a jug and pour their own at home.

The strike had no effect on hunting fever. The customary 1,000 licenses were sold, along with 400 deer tags and 300 javelina permits, and the success of that army of determined meat hunters was never greater.

Herb Odom, in a brother-operated grocery, said Ajo grocers are getting by because people have to eat through good times and bad. But there's great pressure for more credit, which some day will have to come to an end.

The repayment of debts for current living expenses, said Odom, is going to be a long, bitter struggle for some Ajo families.

As proprietor of a tiny Ajo drive-in cafe, Jo Bliss is tuned on the teen-age wavelength. She said the high school set, especially, has been without spending money because of the strike.

Baby-sitting and yard chores are being done by budgeting grownups, and the fathers cannot dole out generous allowances.

Charlie Gilbert runs a jewelry store. The assumption would be that jewelry would be the first luxury given up by strikers. "But at the beginning," said Gilbert, "business was excellent, and there's been enough to justify keeping the doors open."

Lt. Carlton Oglesby of the Pima County sheriff's office, the law west of San Simon Wash, detects a slight increase in crime: petty thievery, house burglaries, juvenile trouble, family fights.

"I don't know what's worse for a family—having the father away working in another town, or having the father at home all day long, especially when there may be a little drinking involved. The women don't appreciate them underfoot, and the men in this town are grouchy when they're not working."

As one incisive housewife observed, "I married him for better and for worse, but not for lunch."

But to Oglesby, who has lived most of his 39 years in Ajo, the significant crime story in strike-bound Ajo is the lack of serious conflict. In seven months, there has been not one act of sabotage, not one offense against the striking workers.

By and large, no citizen better knows a town than the wife—that is, the wife of the publisher of the newspaper. Mrs. Richard David, who reports stories and keeps office for the Ajo weekly, gave long thought to a question about the status of the town.

Then she said, "Ajo got along in fair shape through Christmas. Now . . . Number one, I'd say that large numbers of people are sincerely beginning to worry about their debts.

"Number two, nobody can say how many small businesses are just barely hanging on. The brave front can't last forever.

"Number three, the leaders of this community—union and management and business and civic—are beginning to realize that the best young people are going to put up with this strike only so long. And they are going to move out. Forever. Ajo will suffer, if they go."

Russ Shaw is hurting, and he can hardly deny it. He has closed an automotive parts store, a cocktail lounge, and a bowling alley. His Ford agency, which in a normal year would sell 100 new cars and 150 used cars, has been averaging two new and two used car sales per month.

At his car agency alone, he has had to lay off nine employees, and now Shaw employs only one mechanic and one cleanup man.

"I'm bookkeeper, parts department, janitor," he said. "But that's how this town is getting by, with its own strength of character. Now, in the beginning, if you told me this strike would last this long, I'd have thought the town would disappear. But the company has been more than fair, and the bank hasn't repossessed a car.

"And kids come in here with $3 and they say their daddy said to put it on the account. I tell you, you can't any thing but admire that kind of effort to do the right thing."

Ajo's record, so far, is no surprise to Charles W. Smith, mine supervisor and 30 years an Ajo resident. The Smiths keep a freshly painted and landscaped house in a company suburb. They have not suffered, since Smith is a salaried company supervisor.

"This is a good town, good people," he said. "Except for a little wildcatting, this town never had any labor dispute, had never been drawn down the way some towns in Arizona were. For the first time, Ajo is learning what a long strike means."

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AL IS KIND OF MAN MINES COULD ILL AFFORD TO LOSE

(By Don Dedera)

BISBEE.—In Arizona's copper belt, when company, union or town leadership worry about losing their best men, they all mean Al Voirin.

Al Voirin is a miner. He is young and ambitious, strong and smart, experienced and conscientious. Right now he is also sick and tired of a strike which seems to have no end.

"Between this strike and the last one," he said, "I've lost right at $12,000 in wages. That could have been a good start on giving my kids a college education."

Voirin is a member of that closest fraternity of treasure seekers—the underground miners. When he is working for Phelps Dodge at Bisbee, he and another miner form a partnership as interdependent as a team of rodeo ropers. They drill, blast and timber together and they share bonuses for extra production of ore.

Incentive payments boost Voirin's earnings above some of the salaries of company supervisors.

"He is just about the best miner on this mountain," says his wife, Carole. "When he's working, we don't lack for anything. In fact, we live pretty high."

They would buy beef by the half for their freezer. They clothed their children well. They bought quality furnishings for their $30-per-month company rental, a neat new house in a Bisbee suburb. They protected themselves with insurance and regularly put a chunk into savings.

Overtime further inflated Voirin's paycheck. For a year Voirin and the other miners were working "26 and 2"—26 days straight and 2 days off. It is a wearing but enriching grind, not unpopular with the miners.

Came the strike. Fourteen hundred union men walked away from a $1 million monthly payroll at Bisbee. At first a festive spirit permeated the canyons of Mule Mountain. The miners were ready for a vacation; the strike would be settled in a few weeks and they'd return to even higher pay.

Al Voirin was one of the few who didn't figure it that way. He had been through a long strike before. He told Carole to watch the pennies while he went off looking for some dollars. He found work at an open pit mine in Wyoming.

"That was the part I wouldn't want to live again," Carole said. "He was gone four months. He couldn't come home even once. While he was away, the baby learned to walk and talk.

"The worst was not having him here to share in the decisions. Because Al's such a good provider, I never had to worry about money, and all of a sudden the whole weight of the world was on my shoulders."

Voirin quit his Wyoming job and returned to Bisbee in November for two reasons. He thought a strike settlement was near and he couldn't bear to be away from his family any longer.

Despite their four months without pay, the Voirins are meeting current needs. By claiming no dependents, Voirin made sure his income tax payroll deduction would more than meet his tax bill. He got back a three-figure refund recently.

"But that didn't go too far, not in a family set up the way we were," Carole said. "We have one insurance policy with an annual premium of $250.

"When I say we're economizing, I don't mean we are without the necessities. We just don't have the goodies. We've really cut down on clothing. The kids don't get anything new until the old stuff is worn out."

The Voirins have refrained from running up a bill at the company store or with Bisbee's independent merchants. Voirin has combed the struck towns for work of any kind. He has painted houses, pruned rose bushes and mowed yards. During the big midwinter storm, he towed motorists through the drifts with his Jeep. He hasn't been able to inprove his own home much.

"When a miner has the money he doesn't have the time," he said. "When he has the time, he doesn't have the money."

Voirin doesn't fool himself about what is happening to the once-solid financial foundation he had established for his family. That foundation is cracking and crumbling as the Voirins dip every week into their savings.

With the guilt of a dutiful father, Voirin feels he is robbing his children of future opportunity just to keep them sheltered and fed today.

There are four young Voirins, the youngest 18 months old and the oldest in the sixth grade. The other two also are in grammar school.

"I consider myself a good union man," Voirin said. "I believe in collective bargaining, and I know that if men before me had not had the courage to go on strike I wouldn't be getting decent wages. I suppose there's something to it when the union leaders say we're striking for the next generation.

"But I try to be open-minded and I realize there's a limit to what demands a company can meet. Where I come from in Colorado the coal companies, the biggest mining industry in the state, priced themselves right out of the market. And nobody wins when a company has to shut down forever.

"My feeling about this copper strike is (that) somewhere up and down the line there should have been more give and take and bargaining on good faith. If there had been, I'd be working right now and not loafing around the house."

Two personal conclusions by Al Voirin should be particularly troubling to company, union and civic leadership.

"One way or another, my kids are going to college," he said. "My two boys are going to become miners over my dead body."

At age 32, Voirin also is reviewing his own career. He is wondering if there is some other future for a young, ambitious, strong, smart, experienced and conscientious man—a kind of work where he can take a step forward and not slide two in reverse.

And if Al Voirin and men like him are thinking of giving up mining as a bad deal, somebody in Bisbee, Phoenix and Washington had better take notice.

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COPPER ECONOMY SICK: BISBEE FACES THREAT OF DEFICIT FINANCING OVER STRIKE

(By Don Dedera)

BISBEE-DOUGLAS.—The prolonged strike against Phelps Dodge operations in Southeastern Arizona has infected the economies of Bisbee and Douglas with everything from black plague to spotted measles.

Bisbee is the mining camp in the mountains. Douglas is the smelter town on the plains.

Tied almost entirely to the mines, Bisbee is the sister city with the worst case of slumps.

"We're going to be $30,000 to $40,000 short this year in collections of city sales tax," said Lee Bodenhamer, town clerk. "Bisbee has a 1 per cent tax, so this is a fair indication of our business depression.

"On the other hand, our police and firemen are required no less than before. I'm predicting that Bisbee will have to resort to deficit funding for the first time in its history, just to meet the payroll."

Up and down the narrow lanes of Tombstone Canyon and Brewery Gulch, the recent, varied histories of citizens and businessmen have in common an unhappy ending.

Consider Bill Ryan. The Uniroyal distributor for Cochise County, he is stuck with an inventory of 50 new tires, stacked like gargantuan black doughnuts on a warehouse loading dock. These are not ordinary tires; they are the 9-foot diameter treads for the Lavender Pit's ore trucks, immobilized by the strike.

Ryan's frozen investment is $2,500—for each tire! Seeing no end to the strike, Ryan now is trying to peddle the tires to South America.

A few steps off Post Office Plaza is the small loan office of Family Finance Co., managed by Tim Sumner. An intimate knowledge of Bisbee's financial health is based on his long residency, and the confidential files of customers.

"Today," he said, "if the company and businessmen weren't extending credit, this city would be in deep trouble. As it is, it's worse than what shows on the surface.

"It's true that lenders here have been extending contracts, and no cars or large appliances have been repossessed. Let's take a car; let's say a miner bought a new car last summer just before the strike. He hasn't made any payment for eight months. Now he's $800 behind, plus interest. The car never will be worth what he owes on it, and it is anybody's guess how these contracts will be handled or honored.

"We're talking about families with maybe $1,500 debt at the company store, and unpaid accounts at businesses all over town, and double rent payments probably to begin when the strike is settled. If the strike is settled.

"I've done some more arithmetic. Let's just for example say that the workers win a $1.50-an-hour package increase, all they have been demanding.

"It will take the average worker 30 years to get back what he has lost in wages since last summer."

So far, Bisbee and its satellite communities have held their populations. At first, a brief strike was expected. Now many families are so buried in debt, they can't afford to leave town. Bob Holland of Arizona Public Service Co. reports a loss of only about 100 electric and gas customers. Unions generally are paying utility bills of workers who picket.

The emotional strain of burdensome debt is souring Bisbee's historic good humor. After all, this is the town which invented the term "Johnson Day" for a lusty saloon brawl. This is the town which tolerated a pet bear wandering up and down Brewery Gulch. This is the town which couldn't imagine any happier sport than racing gravity cars down Tombstone Canyon on the Fourth of July.

And today this is the town where Jan Lee, checkout clerk at the company store, says, "I wish the strike would end. The people are hurting. I know, because they are cranky as never before."

Down the hill in Douglas, the influences of the strike are more subtle. Douglas has the border trade with Agua Prieta, a clothing factory, some tourist traffic, a chili packing plant, and the outlying ranches.

But with the sprawling Phelps Dodge smelter closed, and 400 workers idle, the loss of a quarter-million-dollar monthly payroll is hardy cause for cheers at the Chamber of Commerce. A Standard Station, normally with a $16,000-per-month gross, is off to $10,000.

Ruben Caballero, assistant manager at the Bayless Market, notes a preference for hamburger over steak, and his safe is filled with union vouchers in lieu of cash. George W. Hanigan, franchising Dairy Queen drive-ins for Southern Arizona, knows that many Douglas youngsters nowadays do not have that extra dollar.

L. D. Shotwell, Douglas druggist, doubts that any striking family is medically deprived, thanks to the continuing company hospitalization plan, but nonessential dentistry and corrective surgery is probably being delayed.

Currently, Douglas radio's most startling advertisement is by Ray Castillo of Exchange Finance. Castillo says he will make any striker a loan for consolidating debts, with the first payment delayed 45 days—and a guaranteed 45-day further extension if the strike wears on.

At Douglas are the general offices of Phelps Dodge, including the office of H. Lee Smith, director of the company mercantile enterprises in Phelps Dodge towns. Needless to say, he represents a company point of view.

Cynics might sneer that Phelps Dodge has been extending credit in its own self-interest, to encourage key, skilled personnel to ride out the strike. That said, the company policy has undeniable humanitarian qualities.

Oddly enough, in this day of preoccupation with "corporate image," the old, traditional Phelps Dodge Corp. persists in a reflexive phobia of "favorable publicity."

With courtesy, Smith declined to estimate how great a load of credit Phelps Dodge was carrying in the five sizable Arizona cities where PD operations are struck.

"I'm not sure tooting our own horn would either be understood or appreciated," said Smith. "Anyone is free to speculate, of course, if they want to multiply our easily obtained figures."

If some 5,000 Phelps Dodge workers are idle, and only half of them have accepted company credit for rent, food and school supplies, the company is on the hook for at least $2.5 million, which, more than anything else, has eased the pain of the strike.

In the past, company loans have been repaid after strike settlement by payroll deductions. But whichever debts are paid first or last, Arizona's copper cities face a long, agonizing financial convalescence, whenever the men return to work.

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### How President Johnson Was Maneuvered Into the National Copper Crisis

(By Victor Riesel)

WASHINGTON, D.C.—A chap who has known the world's great, at conference tables in London, in sprawling palaces in Geneva and in intimate posh restaurants of New York, spoke of America's Mr. Labor—George Meany—the other day as "the man who has the almost inconceivable good fortune of looking like a plumber and thinking like Cardinal Richelieu."

Since very little happens inside labor which isn't channeled through the stocky cigar-chomping Meany, it can be taken for granted that the final inside maneuvers in the marathon copper strike were brain-trusted by him.

All this leads to a rare glimpse into the gut of a strike. And the view from the inside is fascinatingly different from what the academicians will chronicle later.

Labor's objective was to get President Johnson to intervene—on its side, of course—without his appearing to do so, or even without his realizing it, strange as that may seem.

For the first time the odds were against the massive labor coalition. This is a political year. One bad public relations slip, and labor could cost the President scores of thousands of votes in some 23 states hit by the 8-month walkout.

Furthermore, though the men have been out since July 15, 1967, there just was no copper shortage. This is a complex industry—and the fabrication plants of the industry's Big Four integrated corporations had over a year's supply of refined copper when the pits were struck.

This means that enough was coming through the mining, milling, smelting and refining pipelines to keep the Big Four firms going until almost 1969. Of course, new copper, gold, silver, lead, zinc, etc., were pouring in from Chile, the Congo, Canada and even Zambia.

The corporations therefore held solid, having been solidified by a frontal attack on the entire previously divided industry—obviously a strategic error on the part of the United Steelworkers.

Privately labor observers say that the USWA should have followed Walter Reuther's tactics of picking off one auto corporation at a time.

But just as the USWA had forced a solid front against itself, so it forged a solid front of its own—26 unions running all the way from the Office and Professional Employes to the giant auto and machinist unions, the rail brotherhoods and the building and construction trades department.

So two powerful forces were deadlocked. In this awkward position, they had painted themselves right into a corner. With them was President Johnson. Industry roared that, with the strike almost at the end of its eighth month, he must invoke the 80-day cooling-off period.

But if he did he would have put his closest allies, his fraternal labor friends, on a slippery spot. Their strategy had been to create a scarcity. An 80-day cooling off period would have given industry enough ingots, wire, etc., to last to 1970.

Thus, the almost 8 months of privation by the strikers would have been a senseless sacrifice from their viewpoint. And they would have turned on their leaders. This is the season for wide-open rebellion against labor officials.

So, several of labor's high command—some of them among the President's intimates—decided to take the "forgotten" strike off the back burner and get it on the front pages.

They summoned little Teddy Gleason, bantam chief of the International Longshoremen's Assn., to their council chamber in Bal Harbour, Fla. They told him that the time had come for him to put into action a plan worked out during the national AFL-CIO convention last December.

He was to announce a waterfront boycott of foreign copper.

But the labor chiefs merely wanted an announcement—not an actual boycott. If they had wanted to cut off the copper supply, the boycott committee could have choked it off long ago.

Joe Curran's sailors man some of the freighters which bring in the ore. The rest of the maritime boycott committee is made up of engineers who get up steam on those vessels. There are union men in the radio shacks, etc.

Furthermore, since much of the nation's copper comes by rail and truck from Canada, the Teamsters and the railroad brotherhoods, such as the locomotive engineers who themselves are part of the 26-union front, could have slashed that long ago.

Obviously the longshoremen were merely rattling the pallet. Sure, they had a chap called "Tetticlare" sitting in the ILA's national headquarters with a well-researched list of the Big Four—Anaconda, American Smelting and Refining, Phelps Dodge, and Kennecott—and their subsidiaries.

Every time a shipload came in, a union committeeman telephoned HA-5-1200 in New York City. There, Tetticlare checked his lists or called the USWA research department in Pittsburgh. Blacklisted copper was left on the docks. But metal for GE, Western Electric, American Metal Climax and Essex Wire, for example, went right through.

The pier-rattling did the job. A national crisis had been created. First the Commerce Dept.'s Business and Defense Services Administration officially froze all non-defense copper within hours after Ted Gleason's announcement of a boycott. Generally this takes many days.

Then the boycott committee dispatched a shrewdly worded telegram to the steel union inviting pickets—which never came.

The word bounced back to the White House that almost anything could happen—global boycotts by the International Transportworkers Federation; paralyzing of docks and depots; strangling of "all ships" carrying even a pound of copper among the other cargo in their holds.

And so President Johnson moved. The leaders came in for hamburgers as they had in earlier crises—on the rails, and on the airlines, and as they will soon again in new crises in steel and on the waterfront.

No matter how presidents try—and many have—they get as deep in home-front wars as in those abroad.

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CBS REPORT ON COPPER

CRONKITE. Those White House-sponsored copper talks apparently bogged down today, with one source saying negotiations have reached a near stalemate. The issues involved wages and benefits for almost sixty thousand copper workers in twenty-two states plus arguments over whether a settlement should be worked out company by company or industry-wide. The seven and a half month shut-down is having effects on the nation's economy, but is being most severely felt by the strikers themselves. Terry Drinkwater reports from Butte, Montana.

DRINKWATER. The copper miners of Butte have waited out many long strikes in this old union hall, but never one as hard as this, the longest industry-wide strike in the history of the country. And by now it shows on the faces of these men. The tedium, the boredom of waiting and wondering how much longer they can last until a settlement. Every week the union hands out strike benefits. They average just ten dollars a man. The county helps out too with welfare payments, and there is some charity, but when you have been without a paycheck for more than seven and a half-months, life is pretty bleak. How are you getting along? How rough is it?

STRIKER. It's awful rough. We're just existing, is all. We have no extra money for nothing. Half of the kids don't have decent clothes to wear to school. We get clothes from different unions around town sometimes if they have them. Outside of that, we have to scrounge our own, use some of the money that we have for food, and we have to take and buy shoes, and things like that.

DRINKWATER. Months ago, the pickets at the Anaconda Mine tacked their sign up on the wall. No need to march back and forth diligently with placards here; everyone knows there is a copper strike. For the six thousand miners in the Butte area, the idleness is almost as bad as the poverty. To get more food, many ride back into the mountains to hunt, even tho it is out of season and illegal to shoot deer and most other game.

Fifteen hundred have left Butte to look elsewhere for work. Virgil Cook left his wife and twelve-year-old daughter and went to look for a job in Arkansas. He plans to come back when the strike is settled, but many others will not come back to Butte. Butte, like any other mining town, has gone through many booms and busts, but never before has it been this bad. Most strikers have not been able to keep up payments on their homes. Credit is running out, business is failing, stores closing. Butte's town officials are deeply worried about the future here, even if the strike is settled soon.

Mayor JOHN POWERS. People are leaving, we figure around now in the neighborhood of fifteen hundred have left so far, out-migration. The unemployment figure has reached a staggering fifty-one percent over all. This of course includes the strikers, but without them we still have thirty-one percent. We're becoming very, very, very worried over this situation.

DRINKWATER. Have you made the difficulties here in Butte clear to officials in Washington and in the State Capitol?

POWERS. We've been in contact with the senators and the congressmen back there, and have sent a telegram to Willard Wirtz, asking him to fund a Forest Service project here, just so we would get some kind of a payroll coming into the town, Terry.

DRINKWATER. How do you describe to him the condition here?

POWERS. Well, I told him that we were no longer a distressed area, as we have been designated by the Commerce Department, but rather now we're on the border of a disaster area, Terry. There's nothing coming in and the local businessman is hard put to keep his stores open.

DRINKWATER. This is where the wealth of Butte used to come from, Anaconda huge open pit mine. The long idleness and winter blizzards have badly rusted the heavy shovels which were once capable of digging forty tons of rich copper ore from this mine every day. Now they are badly in need of repair, and so are the trucks and other machinery. Some of the shafts in the underground mines have collapsed, casualties of a long strike. When the strike is finally settled, it will take at least six weeks to get the smelter back in operation again, but not even then will Anaconda be able to go back into full production here. So many men have left Montana that there are not enough skilled workers here any more to mine all of this rich copper ore. Terry Drinkwater, CBS News, Butte.

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## PRESIDENT'S "TO RENEW A NATION" MESSAGE IS COMMENDED BY CHAIRMAN OF PUBLIC WORKS COMMITTEE

Mr. RANDOLPH. Mr. President, the message of the President of the United States transmitted to the Congress today is an impressive expression of the President's commitment to the further development of the work of the Congress in the fields of conservation and environmental management.

The Committee on Public Works has spent the greater portion of its time and effort in the past 5 years on the vital matters covered in President Johnson's significant message. Water quality, air quality, solid waste disposal, mine drainage, lake pollution, highway beautification, and the overall role of highways in our total environment, especially our urban environment, have been matters of unremitting concern to the committee and its members individually.

Already this year the Public Works Committee has been deeply involved with the implementation of air quality control. In the course of our activities this year, we have programed work in water quality. Also, we will conduct oversight hearings concerning management of the national effort in water and air pollution control and solid waste disposal. And we will resume hearings on urban highway planning location and design begun last November, with a view to developing a responsible and responsive advantage of opportunities to aid in the proper development of our metropolitan areas.

All of these programs are of vital and overriding importance in determining the quality of the world we leave to our posterity. They must be given our earnest attention.

I join with the President in urging that the Congress bring to bear the best that our Nation has to offer in solving these difficult but not impossible problems. We have before us a challenging opportunity to build a better world. It is true that:

There is a tide in the affairs of men,
which taken at the flood, leads on to fortune;
Omitted, all the voyage of their life
Is bound in shallows and in miseries.

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## PARTICIPATION OF FEDERAL OR STATE OFFICERS AND EMPLOYEES IN POLITICAL ACTIVITY

Mr. METCALF. In October 1966, the Congress established the Commission on Political Activity of Government Personnel to investigate and study Federal laws which limit or discourage the participation of Federal or State officers and employees in political activity. Recently, the Commission submitted its report to the President and to Congress pursuant to Public Law 89–617.

Contained in that report is the recommendation that at the State level, employees administering programs financed by Federal funds should be subject to the same prohibitions against political coercion, abuse of official authority, fundraising and campaigning for Federal office which apply to Federal employees. I agree wholeheartedly. However, based on communications I have had with the Chairman of the Civil Service Commission and his General Counsel, it is clear to me at least that there is presently no such thing as prohibited political activity.

In May of 1966, the Civil Service Commission published a pamphlet summarizing the laws and interpretations of laws which restrict political activity of Federal employees and certain State and local employees, pamphlet 20. Mr. President, I ask unanimous consent that the portion of that pamphlet found on page 18 which deals with State officers and employees be printed in the RECORD at this point.

There being no objection, the item was ordered to be printed in the RECORD, as follows:

VI. STATE OFFICERS AND EMPLOYEES

This publication deals primarily with the political-activity restrictions applicable to Federal officers and employees. However, it should be mentioned that there are other provisions of the so-called Hatch Act that apply Federal political-activity restrictions to those officers and employees of a State, or local agency of a State, whose principal employment is in connection with an activity financed in whole or in part by Federal loans or grants. These restrictions are also enforceable by the United States Civil Service Commission. The following rule of jurisdiction has been adopted by the Commission in these cases:

An officer or employee of a State or local agency is subject to the Act if, as a normal

and forseeable incident to his principal job or position, he performs duties in connection with an activity financed in whole or in part by Federal loans or grants; otherwise he is not.

The restrictions applicable to State or local agency officers and employees falling within the scope of this rule of jurisdiction prohibit the following:

(1) Use of official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof.

(2) Directly or indirectly coercing, attempting to coerce, commanding, or advising any other such office or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes.

(3) Active participation in political management or in political campaigns.

The first two restrictions are self-explanatory and the third covers the same activities that are described in part IV of this pamphlet.

Mr. METCALF. Mr. President, it is restriction No. 3 which prohibits active participation in political management or in political campaigns that I shall discuss with you in some detail. Since the pamphlet states that restriction No. 3 covers the same activities contained in part IV, pages 10 to 16, I ask unanimous consent that those pages be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

IV. PROHIBITED ACTIVITIES

The Hatch Act is designed to prevent those subject to it from assuming general political leadership or from becoming prominently identified with any political movement, party, or faction, or with the success or failure of any candidate for election to public office.

The following sections are devoted to a discussion of activities that, prior to enactment of section 15 of the Hatch Act (see p. 2), the Civil Service Commission had determined to be activities prohibited by the civil-service rules.

*Activity by indirection*

Any political activity that is prohibited in the case of an employee acting independently is also prohibited in the case of an employee acting in open or secret cooperation with others. Whatever the employee may not do directly or personally, he may not do indirectly or through an agent, officer, or employee chosen by him or subject to his control. Employees are, therefore, accountable for political activity by persons other than themselves, including wives or husbands, if, in fact, the employees are thus accomplishing by collusion and indirection what they may not lawfully do directly and openly. Political activity in fact, regardless of the methods or means used by the employee, constitutes the violation.

*Conventions*

Candidacy for or service as delegate, alternate, or proxy in any political convention or service as an officer or employee thereof is prohibited. Attendance as a spectator is permissible, but the employee so attending may not take any part in the convention or in the deliberations or proceedings of any of its committees, and must refrain from any public display of partisanship or obtrusive demonstration or interference.

*Primaries—Caucuses*

An employee may attend a primary meeting, mass convention, caucus, and the like, and may cast his vote on any question presented, but he may not pass this point in participating in its deliberations. He may not act as an officer of the meeting, convention, or caucus, may not address, make motions, prepare or assist in preparing resolutions, assume to represent others, or take any prominent part therein.

*Meetings*

Service in preparing for, organizing or conducting a political meeting or rally, addressing such a meeting on any partisan political matter, or taking any part therein is prohibited.

*Committees*

The holding of the office of precinct committeeman, ward committeeman, etc., or service on or for any committee of a political party organization is prohibited. An employee may attend any meeting of a political committee to which the general public is admitted but must refrain from activity as indicated in the preceding paragraphs.

Whether a committee has an ultimate political purpose determines whether an employee may properly serve as a member. An employee may be assigned to duties that, considered alone, seem far removed from active politics; but those duties may assume an active political character when considered as part of the whole program. The Commission has held that service by an employee as chairman of a food committee at an occasion signifying the opening campaign speech of a nominee for Governor of a State is not permissible. No attempt can be made to differentiate between workers on or under political committees with respect to the degree to which they are politically active.

*Clubs and organizations*

Employees may be members of political clubs, but they may not be active in organizing such a club, be officers of the club or members or officers of any of its committees, or act as such, or address a political club on any partisan political matter. Service as a delegate or alternate from such a club to a league of political clubs is service as an officer or representative of a political club and is prohibited, as is service as a delegate or representative of such a club to or in any other organization. In other words, an employee may become a member of a political club and may vote on questions presented but may not take an active part in its management or affairs, and may not represent other members or attempt to influence them by his actions or utterances.

Section 6 of the act of August 24, 1912 (37 Stat. 555), provides in part—"That membership in any society, association, club, or other form of organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States, having for its objects, among other things, improvements in the condition of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said Postal Service, or the presenting by any such person or groups of persons of any grievance or grievances to the Congress or any Member thereof, shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service".

Active participation in the activties of a labor union by employees subject to the Hatch Act is not prohibited, where the organization is nonpartisan in character and has as its primary object improvements in the conditions of labor. Matters concerned solely with organization and management of a union of Federal employees are not political management or political activity in violation of section 9(a) of the Hatch Act, and adoption of a resolution limited to these matters would not violate the law. However, a Federal employee who engages in prohibited political activity under the direction or suggestion of a union local will be held personally accountable irrespective of whether he is acting as an individual or as a member of a group, including a union local.

Civil-service employees may hold office in organizations established for social betterment. It is pointed out, however, that in certain circumstances activities of such organizations may take on a character of partisan political activity. Employees who become members or officers of organizaitons of this type must take the responsibility for seeing that the activities in which they engage do not become partisan in character.

*Civic organizations and citizens' associations*

Activity in organizations having for their primary object the promotion of good government or the local civic welfare is not prohibited by the act of August 2, 1939, as amended, provided such activities have no connection with the campaigns of particular candidates or parties.

*Contributions*

Employees may make voluntary contributions to a regularly constituted political organization for its general expenditures, subject to the limitation laid down in section 608, title 18, U.S. Code. The term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

While employees may make contributions, they may not solicit, collect, receive, disburse, or otherwise handle contributions made for political purposes. Employees may not be concerned directly or indirectly in the sale of dinner tickets of a political party organization or in the distribution of pledge cards soliciting subscripitions to the dinners.

Voluntary contributions may be made at any time, so long as they are not made to another Federal officer or employee.

It is not permissible for a Federal administrative official to furnish the names of his personnel and their addresses for the purpose of political solicitation.

In addition certain sections of the Criminal Code place restrictions on contributions by Federal employees. As stated above, contributions may not be handed over to another person in the Federal service; they may not be solicited in a Federal building by any person, whether or not in the Federal service; etc. For the text of these sections of the criminal code and further information on this matter, see part VIII, pages 19 through 25. These sections of the criminal code are within the jurisdiction of the Department of Justice, and the law provides severe penalties for violations.

*Expression of opinions*

Although the act reserves to employees affected the right to "express their opinions on all political subjects and candidates," this reservation is subject to the prohibition that employees may not take any active part in political management or in political campaigns. Public expression of opinion in such a way as to constitute taking an active part in political management or in political campaigns is accordingly prohibited.

*Badges, buttons, pictures, and stickers*

Employees may not distribute campaign literature, badges, or buttons. They are not prohibited from wearing political badges or buttons or from displaying political posters or pictures in the windows of their homes or on their automobiles.

*Newspapers—Publication of letters or articles*

An employee may not publish or be connected editorially or managerially with any

newspaper generally known as partisan from a political standpoint, and may not write for publication or publish any letter or article, signed or unsigned, soliciting votes in favor of or against any political party, candidate, or faction. An employee who writes such a letter or article is responsible for any use that may be made of it whether or not he gives consent to such use.

The Commission has held that as a general rule a newspaper that is considered as being partisan from a political standpoint, either during the campaign or in the interval between campaigns, is regarded as being subject to application of the restrictions against activity in connection therewith. It is not required that a publication be regarded as the organ of a political organization or that it have an official connection with any political organization or party. The words "editorially" and "managerially" are intended to apply to responsibilities and duties that have to do with the making of decisions affecting the editorial policies. The objective behind the restriction on activity in connection with such publications or newspapers is prohibition of political activity of a partisan character through the medium of the public press by a person subject to the statute and the rule.

Whether or not ownership of stock or membership on a board of directors of a corporation that publishes a daily newspaper is a violation of the political-activity restrictions will depend upon the degree to which the individual, by virtue of such ownership or membership, participates in controlling the editorial policy or news management of the publication. If a Federal employee makes decisions or assists in making decisions on editorial policy or news management with respect to the political status of the publication, a violation of the restrictions occurs, but mere ownership of stock would not of itself constitute a violation of the political-activity restrictions.

There is no direct prohibition against correspondence work by an employee for newspapers. The employee will have the responsibility, however, of ascertaining that any material he submits is not in contravention of the restrictions.

*Activity at the polls and for candidates*

An employee has the right to vote as he pleases, and to exercise this right free from interference, solicitation, or dictation by any fellow employee or superior officer or any other person. It is a violation of the Federal Corrupt Practices Act to pay or offer to pay any person for voting or refraining from voting, or for voting for or against any candidate for Senator or Representative in, or Delegate or Resident Commissioner to, Congress. It is also a violation of the law to solicit, receive, or accept payment for one's vote or for withholding one's vote. (See U.S. Code, title 18, sec. 597.)

Under the act of August 2, 1939, it is a criminal offense for any person to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote as he may choose in any election of a National character. It is also a criminal offense to promise any employment, position, work, or compensation, or other benefit made possible by an act of Congress, as a consideration, favor, or reward for political activity or for the support of or opposition to any political candidate or party.

An employee subject to the law must avoid any offensive activity at primary and regular elections. He must refrain from soliciting votes, helping to get out the voters on election days, acting as the accredited checker, watcher, or challenger of any party or faction, or any other partisan political activities at the polls. Rendering partisan political service, such as transporting voters to and from the polls and candidates on canvassing tours, whether for pay or gratuitously, is held to be within the scope of prohibited political activities. This is not intended to prohibit one subject to the act from transporting members of his immediate family to and from the polls, in view of the community of interest that exists in such cases. The foregoing provisions do not apply if the election in question is covered by the exceptions embodied in section 18 of the law of August 2, 1939, as amended. (See p. 16.)

The publication or distribution of election campaign statements not containing names of persons responsible therefor is prohibited by law. The United States Code, title 18, section 612, reads as follows:

"Whoever wilfully publishes or distributes or causes to be published or distributed, or for the purpose of publishing or distributing the same, knowingly deposits for mailing or delivery or causes to be deposited for mailing or delivery, or except in cases of employees of the Post Office Department in the official discharge of their duties, knowingly transports or causes to be transported in interstate commerce any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly declared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared, which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

*Election officers*

A Federal employee may serve as an election officer provided that in so doing he discharges the duties of the office in an impartial manner as prescribed by State or local law, except that he may not become a candidate for such office in a partisan election.

*Parades*

An employee may not participate in or help organize a political parade. An employee may be a member of a band or orchestra that takes part in parades or rallies provided such band or orchestra is generally available for hire as a musical organization.

*Petitions*

The first amendment to the Constitution of the United States provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances." Section 6 of the act of August 24, 1912 (37 Stat. 555), provides that "the right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information to either House of Congress, or to any Committee or Member thereof, shall not be denied or interfered with."

An employee subject to the law of August 2, 1939, as amended (the Hatch Act), is permitted to sign a nominating petition in behalf of a partisan candidate. He may not initiate such petitions or canvass for the signatures of others.

*Candidacy for Public Office*

Candidacy for nomination or for election to a National, State, county, or municipal office is not permissible. The prohibition against political activity extends not merely to formal announcement of candidacy but also to the preliminaries leading to such announcement and to canvassing or soliciting support or doing or permitting to be done any act in furtherance of candidacy. An employee may not solicit others to become candidates for nomination or for election to such an office.[1]

The Attorney General held in an opinion to the Secretary of the Interior dated April 17, 1940 (39 Op. Atty. Gen. 423), that the Hatch Act does not apply to the acceptance and holding of a local office to which an employee was elected without being a candidate, his name not appearing on the ballot but being written in by voters. However, the Commission interprets this opinion as applicable only in cases where the writing in of an employee's name is a spontaneous action on the part of the voters and does not come about as a result of prearrangement whereby the employee was in effect a candidate before the vote was cast.

This decision is authority for the statement that the mere holding of a public office is not in itself a violation. (See also Attorney General's Circular No. 3301, October 26, 1939.)

However, it should be noted that membership on a political committee is not a public office, within the meaning of the foregoing, even though held by election as a political representative of a ward, precinct, county, or of the voting subdivision of a State. The holding of such political offices is prohibited.

V. EXCEPTIONS TO HATCH ACT RESTRICTIONS

The Hatch Act specified two conditions under which political activity on the part of Federal officers and employees is permissible.

(1) Section 18 of the act sets forth an exception relating to elections not specifically identified with National or State issues or political parties.

(2) Section 16 of the act sets forth an exception relating to political campaigns in communities adjacent to the District of Columbia or in communities the majority of whose voters are employees of the Federal Government.

Both sections are quoted on page 4 of this pamphlet.

*Section 18*

To be permissible under section 18, the activity must be of a strictly local character—completely unrelated to issues and candidates that are identified with National and State political parties.

*Section 16*

For many years prior to enactment of the Hatch Act, Federal employees residing in certain municipalities near the District of Columbia were permitted to be candidates for, and to hold, local office in those municipalities.

The permission was granted either by an individual Executive order or by action of the Commission based on an Executive order, and it remained in full force and effect until the passage of the act of August 2, 1939, which prohibited active participation in political management or in political campaigns, without exception. When this act was amended by the act of July 19, 1940, a new section was added (section 16, 54 Stat. 767) whereby the Commission was authorized to promulgate regulations extending the privilege of active participation in local political management and local political campaigns to Federal employees residing in any municipalities or other political subdivisions of the States of Maryland and Virginia in the immediate vicinity of the District of Columbia or in municipalities the majority of whose voters are employed by the Government of the United States.

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[1] For exceptions, see "V. Exceptions to Hatch Act Restrictions," pp. 16–18.

The Commission has promulgated regulations governing the extension of the privileges set forth in the section quoted above and copies of these regulations are available upon request to the Commission's central office in Washington, D.C. Under these regulations it is necessary that a formal request be received from the representatives of the community involved and that the petitioners furnish certain specified information relative to their community and its elections. In all cases * * *

Mr. METCALF. Mr. President, on May 14, 1966, a group of Montanans, who identified themselves as "patriots" in a press release, met at Lewistown, Mont., and formed the "Montana republican Campaign Committee." The stated purpose of the organization was outlined in a publication entitled "Newsletter No. 1, May 21, 1966," which included a press release, issued May 14. I ask unanimous consent that the newsletter and the press release be inserted in the RECORD at this point.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[Newsletter No. 1]

MAY 21, 1966.

DEAR MONTANA PATRIOTS: Allow us to use this method to thank all those wonderful patriots who attended the meeting held in Lewistown, Montana, on Saturday, May 14th. We regret that those who did not take the time or were otherwise detained could not witness the enthusiasm and the down-to-earth American spirit in action.

Enclosed is the press release which was submitted to the wire services on Saturday evening, May 14, from Lewistown. This release was also submitted to several radio stations. A copy is being mailed to all news media in Montana and other states. We will soon find out who the real friends of the Montana people are.

To raise money needed to carry out our program regional finance chairman are being selected. They will solicit the aid of two other concerned Americans in their area to assist them. In addition to raising funds, they are asked to:

(1) Function as advisors from their particular areas to the state headquarters in Lewistown, sending information to the chairman, Lowell Rathbun. They will also keep in contact with Wayne Bloomquist, State Finance chairman.

(2) Canvass their counties to encourage hard-core concerned Americans who preferably are members of the John Birch Society or Montana Conservatives to run for the State Legislature on the Republican ticket. Informed conservatives should be urged to file for all public offices that are up for election on all levels.

Examine your area carefully to determine whether or not you have a man with the above qualifications who will be willing to sacrifice the time and the energy with enough of the dedication that will be necessary to win in this struggle for freedom and who will have enough faith to file for the office of United States Congressman from the Second Congressional District.

Congressman Jim Battin in a speech in Billings last weekend has made it clear that he now favors socialism when the people will not act. We must find a Republican to run for this office who will resolutely resist *all* attempts to collectivize America and who will not advocate opposing galloping socialism with creeping socialism. Also, according to the best information we can gather, Battin was instrumental in forcing the Montana Republican State Central Committee to condemn the John Birch Society. This was in effect a stand against America and republican principles. We know, and they know, that the only organization in our country that is effectively fighting Communism is the John Birch Society. The battle lines are now drawn between atheistic Communism and the John Birch Society (and every individual member of this great patriotic organization). All Americans must take a stand today as to whether they are going to support Communism or Americanism. It is clearly our duty to expose the cowardice, the ignorance, the leftist leanings and the political expediency of those candidates who want our vote but refuse to take a stand for our Republic. We've had more than enough of all these kinds of shameful so-called "Republicans".

A similar canvassing effort should be put forth throughout Montana to find a real man of courage, patriotism, and common sense to seek the office of United States Senator. We *must*, in the best interests of this country, *defeat Senator Lee Metcalf*.

However there is no point in replacing Metcalf with just any man who claims he is a Republican "but that he is not Liberal or Conservative, that he is not right or left, middle or moderate, or ultra, this or ultra that, and that he believes that he can be conservative without being reactionary and progressive without being radical." "Republicians" such as these who are trying to run *our* party in Montana are *not* representing the good citizens of our great state and our nation!

We are going to be selective as to whom we endorse and support as candidates. Any candidate seeking our support should write or phone the MrCC Chairman, Lowell Rathbun, in Lewistown for our Statement of Principles and our position on crucial issues in our state and nation. Every candidate who indicates in writing that he agrees with our MrCC Statement of Principles will be referred to the Committee for Approval, who will make the final decision as to MrCC endorsement.

Tough? We're going to have to be tough, and Mr. Concerned Citizen (MrCC) is going to have to get tougher if we are to save America!

*We need your financial support.* The grassroots concerned citizens of Montana are not a part of the political machines, or a part of the monied international interests operating in the political parties in Montana. But WE the people, are the government of Montana and of America and must be heard. We must get out the facts concerning the revolutionary conspiratorial elements inside America. This takes money. And it takes work and dedication. Send us names and adresses of good conservatives in your area. Ask them for a donation. Send your own! Write immediately so we can quickly organize this growing conservative effort across the State of Montana!

MONTANA REPUBLICAN CAMPAIGN COMMITTEE,
LOWELL A. RATHBUN, *Chairman.*
LEWISTOWN, MONT.
MICHAEL F. FOLEY, *Vice-Chairman.*
HELENA, MONT.

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[Released to the press Saturday evening, May 14, at Lewistown, Mont.]

NEWS RELEASE

(This newsletter sent to: Montana newspapers, Montana conservatives, Republican committeemen and committeewomen and county chairmen, State and county officials, Montana U.S. Congressmen.)

At a meeting in Lewistown on Saturday, May 14, called by Michael F. Foley of Helena, a new state-wide committee of Montana patriots was organized. The group was named the Montana republican Campaign Committee. Its stated purpose is: "To inspire, promote and guide political action which will help restore, maintain and strengthen our Republic." Mr. Foley who instigated the organization of this new group said that this campaign committee will operate through 1966 and probably through 1968. Their direct educational action will be to get the truth to the public so that the good citizens of Montana will get the facts. They will publish state-wide a regular newsletter plus other news releases. In the political field they will endorse candidates who stand on Constitutional principles. Foley said this campaign committee will not give money to any individual candidate for his political campaign, but they will support him in every other way.

Potential candidates seeking the endorsement of this grass-roots citizens' group for Constitutional action will be screened by the official Committee for Approval of MrCC. When approval is given of each candidate the committe will announce his endorsement.

It was decided that Lewistown will be the state office headquarters of the group. Named as chairman of the Montana republican Campaign Committee was Lowell Rathbun of Lewistown. Others named on the Executive Board were Michael Foley, Vice-chairman; Renetta Rathbun, Secretary; and Herb Devine of Danvers as Treasurer. The Committee for Approval will be Rathbun, Foley and John Van Tighem of Great Falls. Communications Chairman is Harvey Griffin, Bozeman. Wayne Bloomquist of Dillon will be State Finance Chairman. The names of the Regional Finance Chairmen will be announced next week, Rathbun said. The first newsletter will be distributed state-wide in the near future.

Foley said: "This hard core of concerned Americans who operate within the State of Montana are sick and tired of supporting and voting for candidates who will vote and who have voted contrary to the best interests of the State of Montana and the United States of America. Consequently, we concerned Americans are going to promote our own people, people who are informed, preferably members of the John Birch Society and/or Montana Conservatives. We hope that the people of Montana will wake up and assist us before it is too late. We intend to be very selective about whom we endorse."

Mr. METCALF. Mr. President, the May 21 newsletter, which received wide distribution, was first called to my attention by the wife of a State employee. Since the principal employment of the chairman of this organization was in connection with an activity financed in large part with Federal funds and since Mr. Rathbun was soliciting political contributions, my office referred this matter to the Chairman of the Civil Service Commission, John Macy, Jr., for a report. I ask unanimous consent that the referral letter of June 1, 1966, together with the acknowledgment from the Commission's General Counsel of June 7, 1966, and of his report on May 31, 1967, be inserted in the RECORD at this point.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

JUNE 1, 1966.

Hon. JOHN MACY, Jr.,
*Chairman, Civil Service Commission, Washington, D.C.*

DEAR CHAIRMAN MACY: While Senator Metcalf is in Montana this office has received a letter from a constituent who writes in part as follows:

"One Mr. Lowell Rathbun, chairman of the small 'r' republican group in Lewistown, is Division Engineer with the State Highway Department in that Division. Today, on the news, the Highway Commission said that they feel they cannot do anything about this man under the Hatch Act. Copying from a notice issued by the U.S. Civil Service Com-

mission, which is hung on my wall, I see that the first item under Prohibited Activities is: 'Serving on or for any political committee, party, or other similar organization . . .'

"Quoting again from the Notice, it says, 'The Law: No officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency . . . shall take any active part in political management or political campaigns . . . (Section 12(a), Act of August 2, 1939, as amended.)

"Now the problem, as I see it, is Mr. Rathbun does indeed come under this Hatch Act since most of the money for building roads in Montana come from the United States Bureau of Public Roads! Unless this man is purely administrative and never, never works on any project, and this is almost impossible with a Division Engineer.

"Now who is responsible for seeing that this Law is followed? It would seem that it would be the job of the Highway Commission but they are not going to do anything, as I mentioned before."

As you will note from the enclosed photocopies of clippings from the Billings Gazette, 3 May 1966, 24 May 1966 and the Lewistown News-Argus, 22 May 1966, Mr. Rathbun is indeed chairman of the republican group in Lewistown and that the group is engaged in political activity.

Please look into this for Senator Metcalf.

Very truly yours,

MERRILL ENGLUND,
*Administrative Assistant to Senator Lee Metcalf.*

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U.S. CIVIL SERVICE COMMISSION,
*June 7, 1966.*

Hon. LEE METCALF,
*U.S. Senate*
Attention: Merrill Englund, Administrative Assistant.

DEAR SENATOR METCALF: This is in reply to your letter of June 1 concerning a possible violation of the Hatch Act by Mr. Lowell Rathbun, an engineer with the Montana Highway Department.

An investigation of the matter has been authorized. We will keep you advised of significant developments.

Sincerely yours,

L. M. PELLERZI,
*General Counsel.*

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U.S. CIVIL SERVICE COMMISSION,
OFFICE OF THE GENERAL COUNSEL,
*Washington, D.C., May 31, 1967.*

Attention: Merrill Englund, Administrative Assistant.
Hon. LEE METCALF,
*U.S. Senate.*

DEAR SENATOR METCALF: The Commission has completed an investigation into alleged prohibited political activity on the part of Lowell A. Rathbun, an engineer with the Montana Highway Department, in connection with the so-called "Montana republican Campaign Committee."

The evidence obtained revealed that Mr. Rathbun did not actively participate in the primary or general election of 1966. Also, his association with the "Montana republican Campaign Committee" was not shown to be political management in connection with a State or National political party. Therefore, it has been decided to close the case. If any further information is received in the future indicating prohibited political activity on Mr. Rathbun's part, the matter will be reopened.

Your interest in this matter is appreciated.

Sincerely yours,

L. M. PELLERZI,
*General Counsel.*

Mr. METCALF. Mr. President, I went back to Mr. Macy in a letter dated June 5, 1967, which went over the Montana republican Campaign Committee newsletter point by point and received a reply from him under date of June 19, 1967. I ask unanimous consent that both letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JUNE 5, 1967.

Hon. JOHN MACY, Jr.,
*Chairman, Civil Service Commission, Washington, D.C.*

DEAR CHAIRMAN MACY: I have the enclosure from General Counsel L. M. Pellerzi who, under date of 31 May 1967, advised me that the Commission has completed an investigation of alleged prohibited political activity on the part of Lowell A. Rathbun, an engineer with the Montana Highway Department, and found that he "did not actively participate in the primary or general election of 1966."

He also advised that the case has been closed, but that "if any further information is received in the future indicating prohibited political activity on Mr. Rathbun's part, the matter will be reopened."

I do not suggest that the case be reopened at this time. I do enclose for your reference, in the event that the Commission ever does decide to take another look at Mr. Rathbun, a copy of the "Montana republican Campaign Committee Newsletter No. 1, May 21, 1966."

You will note that the newsletter:

1. states flatly that Republican Congressman Battin "has made it clear that he now favors socialism when the people will not act" . . . (so) "we must find a Republican to run for this office who will resolutely resist all attempts to collectivize America and who will not advocate opposing galloping socialism with creeping socialism;"

2. says the John Birch Society "is the only organization in our country that is effectively fighting Communism," that "the battle lines are drawn between atheistic Communism and the Society," and that "all Americans must take a stand as to whether they are going to support Communism or Americanism;"

3. calls for my defeat "in the best interests of this country;"

4. announces that the "Montana republican Campaign Committee" is seeking campaign funds and will screen candidates. "Any candidate seeking our support should write or phone the Montana republican Campaign Committee chairman, Lowell Rathbun," the Newsletter says.

In conclusion, I can only say that here we have an individual who headed an organization which in 1966: (1) solicited campaign funds, (2) screened candidates for public office, (3) implied that anyone who did not belong to the John Birch Society was a Communist, and (4) called for the defeat of one incumbent Congressman and one incumbent Senator. Yet this man "did not actively participate in the primary or general election." I propose to share this file with the Commission on Political Activity of Government Personnel to be set up under P.L. 89-617. We may not need to amend the Hatch Act to allow Federal or State employees to "actively" participate in a campaign in view of the Pellerzi definition of what I would call legal "passive" participation. In any event, his report will certainly be a help to me in answering questions from persons, paid in whole or in part from Federal funds, who offer to be of similar help to me.

Very truly yours,

LEE METCALF.

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U.S. CIVIL SERVICE COMMISSION,
*Washington, D.C., June 19, 1967.*

Hon. LEE METCALF,
*U.S. Senate.*

DEAR SENATOR METCALF: This refers to prior correspondence concerning alleged prohibited political activity on the part of Lowell A. Rathbun, an employee of the Montana Highway Department.

The Commission's investigation of this matter in last August 1966, yielded inconclusive evidence insofar as establishing a violation of the political activity laws. However, because of the nature of the evidence obtained the case was not closed but was continued in an active status through the Fall elections. After the elections, further investigation was instituted to ascertain whether Mr Rathbun had undertaken any activity in the general election which would warrant prosecution. The evidence developed by both investigations established that Mr. Rathbun and the group with which he was affiliated, the Montana republican Campaign Committee (MrCC) were absolutely inactive subsequent to the issuance of the newsletter of May 21, 1966. This inactivity evidently stemmed from a misunderstanding by the MrCC of a temporary injunction obtained by the regular Republican Party organization in a court action against them on the first of June.

Consequently, Mr. Rathbun and the committee with which he was affiliated neither screened, endorsed a candidate, nor contributed to a candidate of a political party. The MrCC did not qualify under State law or under the Hatch Act as a political party and, therefore, the case had to be developed on the theory of taking part in a political campaign. The sole evidence of this type activity consisted of the issuance of a press release on May 14, 1966 and the news letter on May 21, 1966. The press release was a mere policy statement. The newsletter, standing alone, was considered, consistent with Commission policy, to constitute constitutionally protected expressions of opinion about public officials. The statement made concerning your reelection was nearly a month before you formally announced as candidate for reelection. The record reflects that your petition of nomination was not filed until June 13, 1966. Mr. Battin's petition was not filed until June 30, 1966.

To be sure this case presents a close question. However, it was the considered judgment of the Commission's General Counsel that the evidence available was insufficient to establish a violation of law in an adversary hearing.

I hope this letter places the matter in better perspective for you.

If I can be of further assistance, please let me know.

Sincerely yours,

JOHN W. MACY, Jr.,
*Chairman.*

Mr. METCALF. Mr. President, far from placing the matter "in better perspective" for me, the letter raises additional questions and may even indicate a little myopia on Mr. Macy's part.

According to the Commission's pamphlet on the Hatch Act published the same month that Mr. Rathbun's organization got underway, an employee may not write for publication or publish any letter or article, signed or unsigned, soliciting votes against any political party, candidate or faction. The pamphlet goes on to say that publications of this nature are prohibited not only during a campaign but also during the interval between campaigns. Mr. Rathbun's organization calls for defeat of an incumbent Representative [Mr. BATTIN] and an incumbent Senator—myself. Yet Mr. Macy tells me that Mr. Rathbun has not violated the Hatch Act.

The Commission's pamphlet clearly states that individuals such as Mr. Rathbun may not solicit contributions made for political purposes. Mr. Rathbun's organization does just that in its news-

letter. Yet Mr. Macy tells me that Mr. Rathbun has not violated the Hatch Act.

The Commission's pamphlet clearly states that individuals such as Mr. Rathbun may not take any active part in political management. Mr. Rathbun does just that in his newsletter. Yet Mr. Macy tells me that Mr. Rathbun has not violated the Hatch Act.

From 1939 to 1967, a period of 28 years, in at least 20 States, the Civil Service Commission has failed to discover a Hatch Act violation where the employing agency is the State. I note that Montana is one of those States. I am not talking about suspension or removal proceedings now, I am simply pointing out the fact that in 40 percent of the States no State employee has ever been charged with violating the Hatch Act—not even Mr. Rathbun.

From 1939 to 1967, a period of 28 years, in at least 15 other States where the employing agency is the State, the Civil Service Commission has issued charges in 29 cases, an average per State of approximately one case every 10 years. These are truly awesome statistics—the approach in 70 percent of the States has been cautious, to say the least.

In the past 11 years—1957–1967—were 43 State cases in which the Civil Service Commission authorized charges for violation of political activity restrictions. However, over the last 5 years—1963–67—we find charges authorized in only 10 State cases. This indicates a rapid decline in enforcement procedures being taken at the State employment level.

In May of 1966, a Montana State employee conducted himself in a manner which to me at least constituted prohibited political activity. This is borne out by a Civil Service Commission pamphlet published at that same time discussing in some detail the application of the Hatch Act to State employees. In July of 1966, the Civil Service Commission issued a news release consisting of 25 questions and answers on the Hatch Act. That release states that employees covered by the act "are forbidden to take any active part in partisan political management"—Question and Answer No. 4. That release also states that covered employees "can attend political rallies and join political clubs, but they cannot take an active part in the conduct of the rally or operation of the club" and that they are prohibited from "becoming involved in soliciting or collecting political contributions"—Question and Answer No. 8. The release states that people such as Mr. Rathbun "must not solicit votes for or against any political party"—Question and Answer No. 9. This release was issued at the time when the Commission had before it my letter of inquiry on Mr. Rathbun. The Commission took a full year to act negatively on my inquiry. It chose to wait and watch for subsequent activities of Mr. Rathbun's group. But the question was whether Mr. Rathbun violated the act in May 1966, not whether he was a good boy after that.

Mr. Macy's letter did place this matter "in better perspective" for me. Now it is clear to me that as far as State employees are concerned, and as far as Mr. Rathbun is concerned, anything goes.

Now with a clean bill of health from Mr. Macy, let us see what Mr. Rathbun, who is supposedly in retirement, has been saying lately. He is quoted as saying on February 17:

The Vietnam war is a diversionary maneuver to keep our minds off what is happening at home—what is happening in the name of civil rights is the Communist revolution. The civil rights movement was conceived by the Communists and they have been working at it for 40 years.

Communist organizers are on the payroll of the Office of Economic Opportunity.

These are just some of the remarks made by Mr. Rathbun at the annual meeting of the Montana Conservatives held at the Placer Hotel in Helena, Mont., on February 17. I ask unanimous consent that the news account printed in the Helena, Mont., Independent Record of February 18 be printed in the RECORD at this point.

There being on objection, the article was ordered to be printed in the RECORD, as follows:

ROAD TO POWER STARTS AT HOME

(By George Remington)

A small group of hard-core Montana conservatives was told Saturday the road to political power must begin at the grassroots level.

"The first objective is the State Legislature," said Frank B. McGehee, Dallas lawyer and head of the 1962 "National Indignation March" on Washington. "The legislators control the political machinery in the state."

Conservatives in control of the Legislature would assure conservatives control of the party executive committees and thus could make sure that liberal-leaning candidates for higher offices got neither moral nor financial support from the party, he said.

McGehee was part of a panel which answered questions from about 30 members of the Montana Conservatives at the organization's annual meeting in the Placer Hotel.

Only a thin folding partition separated the right-wing group from an organization of a far different political persuasion, Montana Democrats for McCarthy, which met simultaneously on the hotel mezzanine.

M'CARTHYITES INVITED

The conservatives invited the McCarthyites to attend a Saturday night meeting at which McGehee, a combat pilot in the Korean War, answered questions about the political and military aspects of U.S. involvement in Korea and Vietnam.

Others on the afternoon panel included Michael F. Foley, of Helena, president of Montana Conservatives; Donald Rueber of Spokane, John Birch Society coordinator; Lowell Rathbun of Lewistown, a leader in the 1966 "small-r" republican movement, and Bob May of Great Falls, the moderator.

The panel answered questions ranging from the presidential candidacy of George Wallace, the Vietnam and Korean wars, the Pueblo incident, the electoral college, the civil rights movement, the poverty war, communism on the campus to overcoming public apathy toward the danger of communism.

A large quantity of Birch and other conservative literature was displayed on a table. Several delegates wore Wallace buttons.

WALLACE HAS GOOD CHANCE

McGehee, emphasizing it is his own opinion and that he is not working for Wallace, said there is a "real probability" the former Alabama governor will be elected president this year if the outcome is decided in the House of Representatives.

He said this is likely "if circumstances continue building at the present rate, especially if there is widespread rioting in the cities this summer."

Other subjects covered and some of the replies of panel members:

Vietnam war—Rueber: "It is a fraud perpetrated on the American people to say that we're fighting communism." He said the United States refuses to win the war and at the same time gives aid to Communist countries.

Poverty War—Rathbun: "Communist organizers" are on the payroll of the Office of Economic Opportunity.

McGehee: "Tax money through the OEO is being used to destroy our country."

Civil Rights—Rathbun: "The Vietnam war is a diversionary maneuver to keep our minds off what is happening at home—what is happening in the name of civil rights is the Communist revolution. The civil rights movement was conceived by the Communists and they have been working at it for 40 years."

Several members of the audience said they have had trouble convincing their friends and neighbors that America is threatened by the Communist conspiracy. Rathbun urged them to be patient and keep trying. He said films often are more persuasive than word of mouth.

"We haven't had very good luck with the press," Rathbun said. "But let's be patient and hope the press will help us get the job done. If it won't, we'll have to do it ourselves."

Mr. METCALF. Mr. President, so now Mr. Rathbun has a license from the Civil Service Commission to go out and campaign against President Johnson and solicit support and funds for George Wallace or Gene McCarthy or anyone else for that matter. He is free to organize opposition for a Montana primary. He is free to call for the President's defeat without ever having to mention his name. He is free to wage a disgusting attack against the integrity of our administration because the President has not yet formally announced his candidacy. And he is free to do all these things because Mr. Macy has ruled that he can do all of these things. Yet when I read the literature published by the Civil Service Commission, I find that the theory and the practice of the Civil Service Commission are separate and distinct.

## FAIR HOUSING

Mr. TOWER. Mr. President, I have always favored the principle of fair housing; that is the very reason I do not favor this substitute. Any measure of this nature limits the principle of fair housing due to its restrictive content. That is, it forms a potential danger because it threatens a fundamental right which I hold essential—the right to reasonable and responsible enjoyment of private property. Legislation such as this puts restrictions on the right of an individual to transfer ownership of his land to whomever he pleases; we should not curtail the right to the free and fair disposition of property. What we have here, Mr. President, is a private action in private dealings between private individuals in the disposition of privately owned property. This open housing measure is potentially dangerous in its extension of the role of the Federal Government and the bureaucracy over these private property rights.

I favor the local approach to problems of open housing. I would note that 94 local open housing ordinances have been adopted since 1958—although some of these ordinances are now inoperative because they have been voided by referendums. During the last year alone, 47 local governments enacted open housing provisions. This is half the total number enacted since 1958 when the first local ordinance was enacted. In addition, 21 States, five counties, and the District of Columiba have enacted open housing legislation. I endorse this local approach—it is better for all concerned to have a local and primarily voluntary approach. It is best for the local community, for the respective States, and for the Nation.

Mr. President, rather than seeking further Federal involvement in this most important area of the housing field as called for in the pending measure, it would be far better, I believe, to seek responsible ways to encourage the voluntary implementation of local determination.

Enforcement matters such as fair housing should be left to the domain of the individual and of the local government or the State.

In addition, let us ask ourselves whether enforced open housing is really the way to solve those problems primarily economic in nature and scope. Those of lower income means just do not have the financial resources with which to improve overnight their housing facilities. Other aspects of civil rights legislation already having the force of law, such as education and employment, are of much more fundamental importance. Given these other important rights and resulting economic strength, any open housing problems would largely resolve themselves.

Mr. President, through Federal open housing legislation, we are forcing the Federal Government into an area from which it has been rightly excluded.

It would be wiser, as I have already noted, to settle such matters on a local level where governing bodies are aware of differences in community concern and the diversity of problems which arise from history and local tradition, rather than to bring in the Federal Government to lead us we know not where.

## RESTORATION OF IMPACTED AID PROGRAM FUNDS

Mr. MURPHY. Mr. President, I am pleased with the Senate Appropriations Committee's action in restoring $90 million to Public Law 874, the impacted aid program. This will mean an additional $15 million for the State of California. I strongly supported the amendment.

Mr. President, since coming to the Senate, I have been a strong supporter of the impacted aid program. I have resisted repeated administration attempts to harm this progress.

I opposed in 1966 the administration's efforts to cut Public Law 874 by $34 million.

In addition, in the same year, it was my amendment that deleted administration language which would have eliminated junior college eligibility under the impacted aid program.

And only last year, I was able to secure an administrative ruling that California junior colleges would remain eligible for impacted aid asssitance despite a restructuring of the junior college system.

Mr. President the impacted aid laws were enacted in recognition that the Government has the responsibility to assist local communities and those school districts where Federal activities have resulted in a great influx of children to the schools. Not only does the Federal activity result in an increased school enrollment, but the Federal facility removes from the local tax rolls the property on which the Federal activity is located. Thus, the local school district has additional children and less of a tax base to support the schools.

If the amendment which I strongly supported had not been agreed to by the Appropriations Committee, school districts across the country would have experienced a reduction in their impacted aid program of approximately 20 percent. To some school districts, particularly in my State, this reduction would have been disastrous.

A good example, Mr. President, is the situation in China Lake, Calif., which has very little assessed evaluation because all property, including houses, is owned by the Federal Government. The district is 100-percent federally impacted. Obviously, a cut of 20 percent to a school district that is so dependent on the impacted aid program would be a severe blow to the community and most harmful to the education program of the district schools.

Many education leaders, parents, and concerned citizens have written to me expressing their concern and urging my support of the restoration of the impacted aid funds. To illustrate the depth of this concern, many educators personally came to Washington and my staff and I heard firsthand the damage that would be done by a 20-percent reduction in the impacted aid program.

I, of course, am most pleased with the Senate Appropriations Committee's action and will do everything possible to see that this program receives its full entitlement.

Mr. President, I ask unanimous consent that a table showing a summary of the distribution among the States be printed in full in the RECORD.

Also, I ask unanimous consent that a sampling of the correspondence from fellow Californians pointing out the great hardship that would have resulted if the cutbacks had been allowed to stand be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

SUMMARY OF ALLOCATION AND ESTIMATED NEED, PUBLIC LAW 874 AS AMENDED, FISCAL YEAR 1968

| State or territory | 1968 appropriation | 1968 entitlement | Difference |
|---|---|---|---|
| Total | $395,390,000 | $486,355,000 | $90,965,000 |
| Alabama | 8,955,406 | 10,888,075 | 1,932,669 |
| Alaska | 9,762,046 | 12,172,490 | 2,410,444 |
| Arizona | 6,285,722 | 7,837,792 | 1,552,070 |
| Arkansas | 1,953,560 | 2,435,933 | 482,373 |
| California | 60,978,019 | 76,034,711 | 15,056,692 |
| Colorado | 10,290,723 | 12,831,708 | 2,540,985 |
| Connecticut | 2,616,498 | 3,262,564 | 646,066 |
| Delaware | 2,350,131 | 2,671,001 | 320,870 |
| District of Columbia | 4,618,402 | 5,758,437 | 1,140,035 |
| Florida | 12,953,787 | 16,030,492 | 3,076,705 |
| Georgia | 12,330,086 | 14,496,199 | 2,166,113 |
| Hawaii | 6,857,193 | 8,550,371 | 1,693,178 |
| Idaho | 2,418,106 | 3,015,185 | 597,079 |
| Illinois | 9,983,678 | 12,448,848 | 2,465,170 |
| Indiana | 3,039,259 | 3,789,713 | 750,454 |
| Iowa | 1,787,388 | 2,228,730 | 441,342 |
| Kansas | 6,196,140 | 7,726,091 | 1,529,951 |
| Kentucky | 6,040,371 | 6,413,502 | 373,131 |
| Louisiana | 3,001,338 | 3,713,288 | 711,950 |
| Maine | 2,661,479 | 3,318,651 | 657,172 |
| Maryland | 18,746,284 | 23,377,258 | 4,630,974 |
| Massachusetts | 10,412,223 | 12,812,595 | 2,400,372 |
| Michigan | 4,981,623 | 6,211,685 | 1,230,062 |
| Minnesota | 1,706,172 | 2,127,460 | 421,288 |
| Mississippi | 2,478,037 | 3,089,914 | 611,877 |
| Missouri | 5,221,005 | 6,510,176 | 1,289,171 |
| Montana | 3,228,800 | 4,026,055 | 797,255 |
| Nebraska | $3,802,700 | $4,741,663 | $938,963 |
| Nevada | 2,719,033 | 3,390,417 | 671,384 |
| New Hampshire | 1,859,828 | 2,319,057 | 459,229 |
| New Jersey | 7,904,435 | 9,856,198 | 1,951,763 |
| New Mexico | 7,912,906 | 9,866,761 | 1,953,855 |
| New York | 21,055,954 | 26,039,763 | 4,983,809 |
| North Carolina | 9,344,737 | 10,516,563 | 1,171,826 |
| North Dakota | 2,359,730 | 2,942,395 | 582,665 |
| Ohio | 9,660,120 | 12,045,397 | 2,385,277 |
| Oklahoma | 8,932,441 | 11,138,039 | 2,205,598 |
| Oregon | 1,945,923 | 2,419,913 | 473,990 |
| Pennsylvania | 7,313,773 | 9,018,024 | 1,704,251 |
| Rhode Island | 2,638,017 | 3,289,396 | 651,379 |
| South Carolina | 6,682,898 | 8,041,698 | 1,358,800 |
| South Dakota | 3,446,992 | 4,296,706 | 849,714 |
| Tennessee | 4,915,534 | 6,129,278 | 1,213,744 |
| Texas | 20,904,631 | 26,066,402 | 5,161,771 |
| Utah | 4,505,686 | 5,618,230 | 1,112,544 |
| Vermont | 122,508 | 152,758 | 30,250 |
| Virginia | 24,455,489 | 29,794,811 | 5,339,322 |
| Washington | 10,549,718 | 13,154,654 | 2,604,936 |
| West Virginia | 465,327 | 580,226 | 114,899 |
| Wisconsin | 1,669,789 | 2,082,093 | 412,304 |
| Wyoming | 1,304,017 | 1,626,005 | 321,988 |
| Guam | 1,307,307 | 1,630,107 | 322,800 |
| Puerto Rico | 5,429,002 | 5,465,710 | 36,708 |
| Virgin Islands | 104,419 | 130,202 | 25,783 |
| Wake Island | 223,610 | 223,610 | |

KERN COUNTY JOINT UNION HIGH SCHOOL AND JUNIOR COLLEGE DISTRICT,
*Bakersfield, Calif., February 20, 1968.*
Senator GEORGE MURPHY,
*Office of the Senate,*
*Washington, D.C.:*

This district very much concerned at lack of full appropriation of impact area funds. Current limited appropriation will have significant effect on property tax payers of this district. Urge your support of full appropriation.

THERON L. MCCUEN,
*District Superintendent.*

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LEMOORE ELEMENTARY SCHOOL DISTRICT,
*Lemoore, Calif., February 29, 1968.*
Senator GEORGE MURPHY,
*Senate Office Building,*
*Washington, D.C.:*

Urgent that something be done Public Law 874 funds. This money represents 15 percent of our total budget, 25 percent of teachers salaries, 50 percent of our student population federally connected due to naval air station this area.

E. G. BILLINGSLEY,
*District Superintendent.*

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OCEANSIDE, CALIF.,
*February 28, 1968.*
Senator GEORGE MURPHY,
*Senate Office Building,*
*Washington, D.C.:*

It is imperative amendment to House bill 15399 be passed in order to provide Public Law 874 funds for federally impacted district. Due to increased military activity, Oceanside Union District enrollment is now 66 percent federally connected. Your support for the education of these children will be appreciated.

RODERIC MOORE,
*District Superintendent.*

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SAN FRANCISCO, CALIF.,
*February 21, 1968.*
Hon. GEORGE MURPHY,
*Senate Office Building,*
*Washington, D.C.:*

Understand supplemental appropriation floor action due this week and that funds are not provided for full entitlement federally impacted school districts, solicit your contacting Appropriation Committee urging full funding for impact areas; otherwise San Francisco and other California school districts will be facing twenty percent proration this year and thirty percent next year. Similar wire being sent Senator Kuchel.

Kindest personal regards,

ROBERT E. JENKINS,
*Superintendent of Schools.*

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VACAVILLE UNIFIED SCHOOL DISTRICT,
*Vacaville, Calif., February 20, 1968.*
Hon. GEORGE MURPHY,
*Senate Office Building,*
*Washington, D.C.:*

Strongly urge return of funds for Public Law 874 in Federal finance legislation for education. This district heavily impacted. Will be in critical financial situation with military and others if financing is not provided for Public Law 874 as it now is. Repeat, this is extremely critical in this school district.

ROBERT B. POKORNY,
*Superintendent.*

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ALAMEDA UNIFIED SCHOOL DISTRICT,
*Alameda, Calif., February 20, 1968.*
Senator GEORGE MURPHY,
*Senate Office Building,*
*Washington, D.C.:*

Have received information today that Senate will consider supplementary appropriation bill Wednesday. Portions of bill contain appropriations for HEW but no appropriation for full entitlement for impact legislation, Public Law 874. If full entitlement not paid California schools, serious financial problems will result. Estimated 20 percent deficiency for this district would result in curtailment of program including discharge of some personnel.

CHAS. A. BRISCOE,
*Assistant Superintendent.*

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OCEAN VIEW SCHOOL DISTRICT,
*Oxnard, Calif., February 26, 1968.*
Hon. GEORGE MURPHY,
*Senate Office Building,*
*Washington, D.C.:*

Pursuant to my letter February 21, regarding urgent need for supplemental appropriation to pay entitlements to school districts, have new information that Senator Fulbright has amended the recent urgent supplemental bill 1968, H.R. 15399 to include $91 million for payments to local school districts under Public Law 874. You can determine from his addition to Congressional Record February 20 amount of this for California school districts. Without successful passage this amendment our district will suffer financial hardship amount of $43,000. Would sacrifice instrumental and vocal music, speech therapy, remedial reading programs. A vote for this urgent supplemental bill 1968, with this amendment will keep United States from defaulting on its obligation to local schools. Your support will be appreciated.

ROY M. MARRS,
*District Superintendent.*

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MUROC UNIFIED SCHOOL DISTRICT,
*Edwards, Calif., February 21, 1968.*
Hon. GEORGE MURPHY,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR MURPHY: The enclosed bulletin elaborates somewhat on the reduction of federal repayment, *not aid,* to districts which are impacted with children whose parents are employed on property-tax-exempt federal installations.

With a budget of $3,000,000, it is unnecessary to tell you that a $150,000 reduction in income would convert a small annual surplus into a significant deficit.

What is worse than the knowledge that we might well end with a deficit for the year is the haunting likelihood that we cannot make up future budgets with any assurance that income under Public Law 874 will approach the amount we estimate. If the situation this year is not corrected, our future planning will have to be predicated each year on the basis of federal apportionments actually received during the previous year and carried over. In other words, for one year, at least, we would face the prospect of planning a budget which does not anticipate any fulfillment by the federal government of its acknowledged commitment.

If there must be a cutback, at least it seems that the full amount should be granted for the current year and the district be provided advanced warning that next year's apportionment might well be reduced.

Please do what you can to help us provide an education to which the children of our military and civil service people are entitled.

Sincerely yours,

RICHARD B. LYNCH.

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PALMDALE SCHOOL DISTRICT,
*Palmdale, Calif., February 26, 1968.*
Hon. GEORGE MURPHY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR MURPHY: The Urgent Supplemental Bill, 1968, H.R. 15399 is currently before the Congress. Senator Fulbright has introduced an amendment to the above bill adding 91 million dollars for payment to Federally Impacted districts under P.L. 874. We urge your support of this amendment.

Approximately 40% of the students in the Palmdale School District qualify for funds under P.L. 874. A deficiency in appropriation will create a serious financial problem to the district. If the estimate of a 20% deficiency is accurate we will lose approximately $38,000.00.

I am sure you are aware that the timing of these appropriations is such that the money is spent or committed long before the Congress completes its work on the appropriation. We have made our estimates on the basis of legislation. We urgently request your support in eliminating a deficit in the P.L. 874 appropriation.

Sincerely,

RALPH J. LOVIK,
*District Superintendent.*

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LASSEN JUNIOR COLLEGE DISTRICT,
*Susanville, Calif., March 2, 1968.*
Hon. GEORGE M. MURPHY,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR MURPHY: It has come to my attention that there is a move in Washington to cut off about one fifth of the Federal support of Federally impacted schools in Public Law 874. It is totally improper to excise support for education to pay for our tragic actions in Vietnam.

Please continue to do your utmost to protect the funds for education. We all desperately need to maintain and improve education rather than to decrease our support of it. Education is at least one approach to our civil problems that is working even though not as universally or as fully as it should.

Thank you for supporting education as you have been.

Sincerely,

CHARLES S. RICHARDSON,
*Board Member and Susanville City Council Member.*

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LONG BEACH UNIFIED SCHOOL DISTRICT,
*Long Beach, Calif., February 14, 1968.*
Hon. GEORGE MURPHY,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR MURPHY: We have been informed that the appropriation for Public Law 874 (Aid to Federally Impacted Districts) has been set at $416,200,000 for Fiscal 1968. Of this amount, $395,390,000 has been made available for funding purposes. It is presently estimated that the total requirements of the Act will exceed this amount by $90 to $100 million. For the time being, initial payments will be made at 50 percent (normally 75 percent) of the estimated district enrollment and it is estimated that the total final amount allowed, after pro-rating for lack of funds, will be about 80 percent.

Long Beach Unified School District will probably lose $331,000 if the above funding reduction remains in effect. This is equiv-

alent to a 3-cent increase in local property taxes or, if this is to be avoided, it would require approximately a 1 percent reduction in salaries.

It is unfortunate that this action is being taken at a time when Long Beach is again feeling the full impact of a major military effort. This is the purpose for which Public Law 874 and Public Law 815 were originally created.

The effects of this new policy will be felt more severely during next year when the full impact of additional Navy housing and increased size of the armed forces will become apparent in this school district.

We urge that the $20,810,000 now withheld from the 1968 appropriation be released for allocation prior to the close of the fiscal year. In addition, we feel that, in the light of the current military build-up, a fiscal 1968 supplemental appropriation should be provided sufficient to pay 100 percent of the entitlements.

Your constant and responsive attention to the problems of public education are deeply appreciated.

Sincerely,

FRANCIS LAUFENBERG,
*Associate Superintendent.*

## ADJOURNMENT UNTIL MONDAY AT 11 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 11 o'clock a.m. on Monday next.

The motion was agreed to; and (at 4 o'clock and 20 minutes p.m.) the Senate adjourned until Monday, March 11, 1968, at 11 a.m.

# EXTENSIONS OF REMARKS

## Alleged Splits and Disagreements Within the Communist Bloc

### HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

*Friday, March 8, 1968*

Mr. THURMOND. Mr. President, the 66 Communist parties now meeting at Budapest have provided the excuse for many commentators to talk about so-called splits and disagreements within the Communist bloc.

Such talk is self-delusion on the part of those who will grasp at any straw in the hope for a better world. It is true that the nature of international communism is changing, but it is changing in the direction of greater sophistication, greater subtlety, and greater capability in its prosecution of its plan to dominate the whole world. One cannot expect the rulers of a modern technological society to be as crude and ineffective as their gangster predecessors. I see no reason to believe that the Communist threat has diminished simply because the Communists have developed greater skill. The fundamental issue is whether they still have the will to dominate the world.

These issues have been set forth clearly in a fine editorial entitled "Real Communist Unity," published in the Charleston News and Courier of Friday, March 1, 1968. The editorial shows that not all segments of the American press have fallen for the split gimmick. I recommend this editorial to all Senators and ask unanimous consent that it be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REAL COMMUNIST UNITY

With 66 Communist parties meeting in Budapest, it is timely to dwell on the basic unity of the worldwide revolutionary movement.

Nowadays, Americans hear much about the "polycentric" nature of communism. Writers and commentators who believe—or say they believe—the cold war has ended contend that communism no longer is a single, unified movement. They note that it has a number of nationalistic centers. Hence the use of the term "polycentric." When some minor issue creates a division in an international communist gathering, such as the current Russian-Romanian difference over the site of a future conference, the dispute is held up as evidence that the Red threat is splintered.

Communism does present a more complex face than during the time of Stalin's rule in Soviet Russia. Numerous states are now dominated by communist parties. Spreading of the movement does not mean that communism has ceased to be a powerful, coordinated force in the world.

"Polycentric" communism is no less dangerous than communism totally directed by Moscow. Ho Chi Minh, Fidel Castro and other figures of "polycentric" communism are enormously dangerous. They fit into the overall Soviet plan of world conquest.

So-called national communism isn't nationalistic at root. Cuba serves the Soviet Union's interest in the Western Hemisphere. North Vietnam is a useful proxy for Moscow. In the Vietnam war three supposedly distinct communist entities—the USSR, Red China and North Vietnam—coordinate a huge military operation. Both Soviet and Chinese war materiel is utilized for the purpose of humiliating and defeating the United States. North Korea, often described as a Tito-like independent communist regime, is doing the work of both the USSR and Red China in forcing diversion of American military strength to North Asia.

Some students of communism believe that the minor differences between communist states and parties are part of a plan of deception. Romania, for example while supposedly seeking independence from the USSR, is shipping war goods to North Vietnam. Its vessels are part of the total Soviet sealift.

Even Communist China and the Soviet Union, while they have more genuine national differences, remain united on the goal of weakening and ultimately destroying the United States. The argument is over means and ideological conceptions. Both communist states and parties want to bury the United States. Their goal is the key fact that Americans should bear in mind when they hear scholarly softsoap about "polycentric" communism.

## President Urges Potomac National River

### HON. HERVEY G. MACHEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, March 8, 1968*

Mr. MACHEN. Mr. Speaker, 3 years ago, President Johnson sent a message to the Congress asking for a program that would clean up the Potomac River, keep it clean, and make it a model of scenic and recreation values for the entire country.

In response to that request, a Federal interdepartmental task force on the Potomac—working closely with the advisory committee representing the Potomac Basin States, undertook a comprehensive study of the entire Potomac River Valley.

The President today submitted to the Congress his conservation message and in that message is a proposal to establish a Potomac National River.

This proposal, based on the study of the Federal task force, calls for a new kind of park—a National River Park, to be developed around the concept of a "green sheath" that would provide recreation opportunities of infinite variety in a setting of great beauty.

The history of the Potomac River and this Nation are closely entwined. We are fortunate, indeed, that the Potomac is one of the most beautiful, least-spoiled major rivers in the Eastern United States.

I agree wholeheartedly with the President that we have a firm obligation to keep it that way and I commend him on his proposal to restore and preserve this river that is so important to the States of Maryland, Virginia, West Virginia, and to the Nation's Capital.

I am also pleased that the administration has endorsed my bill to complete the George Washington Memorial Parkway in Prince Georges County, a program which is consistent with the administration's objective of saving as much of our Potomac River shoreline as we possibly can before it is too late.

The President's message establishes many priorities for improving the quality of our total environment. None, in my opinion, is more important than the recommendation to establish a Potomac National River Park that would become a prime recreational asset for the 5 million people who live within 50 miles of its banks.

## Military Manpower for Vietnam

### HON. THOMAS M. PELLY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Friday, March 8, 1968*

Mr. PELLY. Mr. Speaker, the Nation is faced with a major issue; should the United States increase its forces in Vietnam, and second, should we terminate college deferments in order to provide additional troops?

On the first issue, I must say it is difficult to comprehend any policy of send-